

51829-6581

DPAC 10/12/07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

October 15, 2007

Aimee Dailey
Charles County Department of Planning and Growth Management
PO Box 2150
La Plata, MD 20646

Re: Growth Allocation Request for Benedict on the Patuxent
Preliminary Comments

Dear Ms. Dailey:

Thank you for forwarding information regarding the request to use growth allocation for the above-referenced project. The applicant is requesting consideration of a proposal to use 1.95 acres of growth allocation for a 1.95 acre property currently designated as a Limited Development Area (LDA). The project involves the construction of a commercial restaurant and brew pub, with additional, limited commercial use.

The applicants have provided findings related to the growth allocation request. The Design Criteria for the project appears to be in accordance with Charles County Code §297-134.C and the Critical Area Commission guidelines for locating new intensely developed areas as set out in COMAR §8-1808.1(c). Please be advised that the following items need to be addressed:

1. The application must include sufficient information for the Commission to determine that the project meets the requirements for development in the IDA. Please have the applicant provide a conceptual stormwater management design and a 10% pollutant removal worksheet for the site.
2. Specifications for the extended detention/wet meadow are necessary, as it does not appear to be listed as a best management practice (BMP) in the 2000 Maryland Stormwater Design Manual and may not qualify as an appropriate stormwater management measure to meet the 10% pollutant removal requirements for this site. The applicant should consult the MDE manual in determination of the best BMP for the site.
3. These lots are located in a designated Buffer Exempt Area (BEA); therefore, any development activities within the Buffer must comply with the provisions of Charles County Code § 297-131.C.3.h, which states that "new multifamily residential, institutional, commercial, and industrial development and redevelopment shall be subject

Aimee Dailey
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- to the standards and mitigation requirements as specified in the Critical Area Commission's Buffer Exemption Area policy." This Commission's policy is enclosed.
4. The application must include a letter from the Department of Natural Resources indicating that the project has been reviewed for potential impacts to HPAs or rare, threatened, or endangered species on site.
 5. The application must clearly indicate existing conditions on site and proposed development activities. If this cannot be clearly shown on a single drawing then separate drawings may be necessary.

The preceding comments represent the review and evaluation of the materials the applicant submitted to the Commission staff. As you know, the Critical Area Commission must review and approve all requests for map amendments involving the use of growth allocation. During the Commission's formal review, they may request additional information or have additional concerns. Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3476.

Sincerely,



Julie Roberts
Natural Resources Planner

Cc: 606-07

Enclosure by mail only

look in corner
8-1901
Green folders - check subheads

CHARLES COUNTY GOVERNMENT
Department of Planning and Growth Management
Melvin C. Beall, Jr., P.E., Acting Director



CHARLES COUNTY
MARYLAND
Where Eagles Fly™



INTEROFFICE MEMORANDUM

DMK letter

TO: Roger Fink, County Attorney (w/reduced plan)
Chuck Beall, PGM (w/reduced plan)
William A. Shreve, Utilities (w/reduced plan)
Faye Reed, Health Department (w/reduced plan)
Julie Roberts, Critical Area Commission (w/plan)

THRU: Dave Umling, Planning *Director*

THRU: Charles Rice, Environmental Programs Manager *ck*

FROM: Aimee Dailey, Planner II *ASD*

DATE: August 17, 2007

SUBJECT: Growth Allocation: Benedict on the Patuxent

Attached, please find a copy of the above-referenced Growth Allocation request. The Growth Allocation process allows for the review and approval of certain development within the Chesapeake Bay Critical Area Overlay Zone. The request is to change the overlay designation on Tax Map 49, Parcels 74 & 75 from the Limited Development Zone to the Intense Development Zone for the purpose of redeveloping the site with a restaurant/brew-pub and limited commercial use. The site is 1.95 acres in size. Please review the material and provide any comments that you may have to Aimee Dailey no later than **September 20, 2007**.

Should you have any questions, please contact Aimee Dailey at x2721.

Cc: Kevin Vienneau, Bolton & Associates, LLC
Aimee Dailey, Environmental Planning
Mary Grant, Environmental Planning (w/plan)
Cathy Hardy, Community Planning (w/plan)
Jason Groth, Adequate Public Facilities (w/plan)
Shelley Wagner, Site Plan and Subdivision Review (w/plan)
Mike Hinchy, Development Services (w/plan)
Read file
ZMA file (w/plan)

RECEIVED

AUG 20 2007

CRITICAL AREA COMMISSION

August 13, 2007

Mr. David Umling
Planning Director
Charles County Department of
Planning and Growth Management
P.O. Box 2150
La Plata, MD 20646

Re: Critical Area Growth Allocation Application, BL#: C4910-0701

Dear Mr. Umling,

Bolton & Associates is pleased to submit an application for Critical Area Growth Allocation, to amend the Critical Area Overlay Zoning from Limited Development Zone to Intense Development Zone affecting a 1.95-acre property on the shoreline of Benedict. The property is found on Tax Map 49, Parcels 74 and 75, and located at 7383 Benedict Avenue. The applicants, Donald E. and Mary R. Smolinski, are the owners of the property.

The purpose of the requested Growth Allocation is for the re-development of the site with a restaurant with accessory brewery (pub-brewery), or a standard restaurant, either with limited commercial retail use. Enclosed are copies of a site plan and supporting report.

If you have any questions or require additional information, please contact me at 301-539-4682, extension 215, or kvienneau@boltonandassociates.com. Thank you for your consideration.

Sincerely,



Kevin Vienneau
Project Manager – Land Planning

Enclosures

Cc: BL#: C4910-0701

Application for Critical Area Growth Allocation Benedict on the Patuxent

The Charles County Zoning Ordinance, in Article IX, §297-134, provides the requirements for Critical Area Growth Allocations, the system by which Critical Area overlay zones are re-designated to allow for higher intensity development. According to §297-134, the County's allotted growth allocation acreage is awarded on a project-by-project basis to permit changes in the Critical Area boundaries that are consistent with the Charles County Critical Area Program, Charles County Comprehensive Plan and the base zoning, when a specific development project is proposed. Among the procedures in §297-134, the Zoning Officer will review a proposed project and submit recommendations to the Planning Commission. The Planning Commission will hold a public meeting, and then provide recommendations to the County Commissioners. The County Commissioners will then consider applications for approval, as required for general zoning map amendments.

Background & Amendment Request

Donald E. and Mary R. Smolinski request consideration for a Growth Allocation, to amend the zoning for their 1.95-acre property located at 7383 Benedict Avenue, in Benedict. The Base Zone designation is Commercial Village (CV), and the Critical Area Overlay designation is Limited Development Zone (LDZ).

The requested Growth Allocation is to grant the re-designation of the subject property to Intense Development Zone (IDZ), thus allowing for the construction of a restaurant with accessory brewery (pub-brewery), or a standard restaurant, either with limited commercial retail use. The restaurant with accessory brewery, standard restaurant, and limited retail uses are permissible by right in the CV Zone.

Proposed Findings

1. **Ownership and Location:** The applicants and property owners are Donald E. and Mary R. Smolinski. Requested is the amendment of zoning classification from LDZ to IDZ to affect Tax Map 49, Parcels 74 and 75, Block 7, Lot 2, containing 1.95 acres. The location of the property is 7383 Benedict Avenue. The location of the proposed IDZ is consistent with the location criterion in §297-134.B, "A new IDZ should be located in an existing LDZ or adjacent to an existing IDZ". The Growth Allocation request is not affected by the minimum area criterion, because the subject property is within an area designated as LDZ.

2. §297-134.C. Design Criteria:

- (a) The site development will incorporate Best Management Practices (BMPs) to address water quality requirement, with the objective to meet or exceed the Critical Area 10% Rule. Subsequent plans will provide greater detail regarding stormwater management, landscaping and grading.
- (b) The Village of Benedict is listed by the Maryland Historical Trust as a historic district. The subject property is the site of the Messick Hotel, originating as a small home in 1910, and later enlarged to a hotel. The building continues to exist as a vinyl or aluminum clad structure. Two buildings exist at the shoreline, historically built and used as oyster packing or shucking houses, one of white block located on pilings over the water and built in 1960. The other is a wood-frame building in disrepair, built in 1930.

The proposed zone re-mapping by Growth Allocation proposes the unavoidable demolition of the hotel building, to accommodate the planned intensification of land use. The applicant intends to preserve the old oyster packing building located over the water. The poor condition of the older wood-frame oyster packing building is reasonable cause for demolition to accommodate the planned use. However, the applicant intends to evaluate the feasibility for preserving it. The natural occasional flooding of the building is a significant cause for deterioration, and preserving it may not be economically feasible. Otherwise, the proposed zone re-mapping does not impose a significant potential for adverse effects to any known historic or archaeological resources.

- (c) Conformance with the criteria of the Critical Area Program affecting the Resource Conservation Zone (RCZ) is not applicable, because the subject property is not within or adjacent to the RCZ.
- (d) The requirement for cluster development affecting the RCZ is not applicable, because the subject property is not within the RCZ.
- (e) Affected Habitat Protection Areas are limited to the Critical Area Buffer. The existing disturbed condition of the Buffer provides opportunity for habitat enhancement. The project will be designed to meet all Critical Area Criteria, particularly those providing development standards for planting in the IDA, and those providing for water quality improvement.
- (f) The requirement for a 300 foot buffer from tidal waters and wetlands is not applicable, because the subject property is not within or adjacent to the RCZ.
- (g) The project will be designed to satisfy all Critical Area Criteria, particularly with respect to §297-132.F.. Subsequent plans will provide enhanced detail,

focusing on native plant materials, naturalistic horticultural design, and effective water quality measures, in cooperation with the County and the Critical Area Commission.

- (h) The project is consistent with the County's policies and procedures for the award of Growth Allocation acreage, as set forth in the Charles County Zoning Ordinance. The project will conform to the Charles County Critical Area Program at the time of development.

3. §297-134.D. Density Basis: Density limitations are not applicable, because the proposed development is non-residential. As stated in the submitted information, the sanitary sewer flows will be those permitted through planned community facilities, as approved by the Charles County Department of Environmental Health, Maryland Department of the Environment, and the Charles County Department of Planning and Growth Management.

4. §297-134.E. Conditions of Approval:

- (a) The Planning Commission shall review the progress of the project on an annual basis, and if the Planning Commission finds the development to not proceed according to the schedule as provided in §297-143.E., the Growth Allocation will be withdrawn and re-application required.
- (b) After site inspection and final approval of all required improvements, the Planning Commission shall determine whether a project is substantially completed or not, as defined in §297-134.E.
- (c) Design standards will be met or exceeded as follows:
 - i. The project will be designed to conform to all applicable Charles County ordinances and regulations. The attached site plan identifies the proposed design, and subsequent submissions will provide refined detail.
 - ii. The site development will incorporate BMP's to address benefits to water quality, as outlined in the Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance Manual – Fall 2003. Subsequent required submissions will provide refined detail in terms of water quality improvement and enhancement of habitat values, in cooperation with the County and the Critical Area Commission.
 - iii. Comments and recommendations of the County, the Department of Natural Resources and the Critical Area Commission will be incorporated into the project design.

- iv. The execution of restrictive covenants or conservation easements, to guarantee maintenance of required open space areas, applies to large-scale developments where performance of maintenance is difficult to manage. The proposed residential/commercial development on 1.95 acres is a comparatively small-scale development.
 - v. The proposal minimizes the use of the County's Growth Allocation, because the allocation requested is the minimum necessary to realize the development program requested by the applicants.
5. §297-134.F. Computing the use of the growth allocation: One development envelope entirely within the Critical Area, consisting of Tax Map 49, Parcel 74 & 75, Block 7, Lot 2, containing 1.95 acres, is proposed for computation of the growth allocation, consistent with §297-134.F., of the Zoning Ordinance.
 6. §297-134.G. Procedures: The Growth Allocation is being made at the earliest possible review stage, and the applicable procedures are being followed.
 7. §297-134.H. Objectives:
 - (a) According to the Assessment of Waterfront Development Opportunities for Charles County, Maryland, published in 1999, Benedict ... "represents one of only two locations (Cobb Island the other) where the waterfront village image of the community clearly contributes to a sense of Charles County having a "waterfront image". It is the only Patuxent River location in Charles County considered appropriate for development of waterfront uses." The Assessment recommends additional marina development and development of complementary waterfront uses (e.g. restaurants).

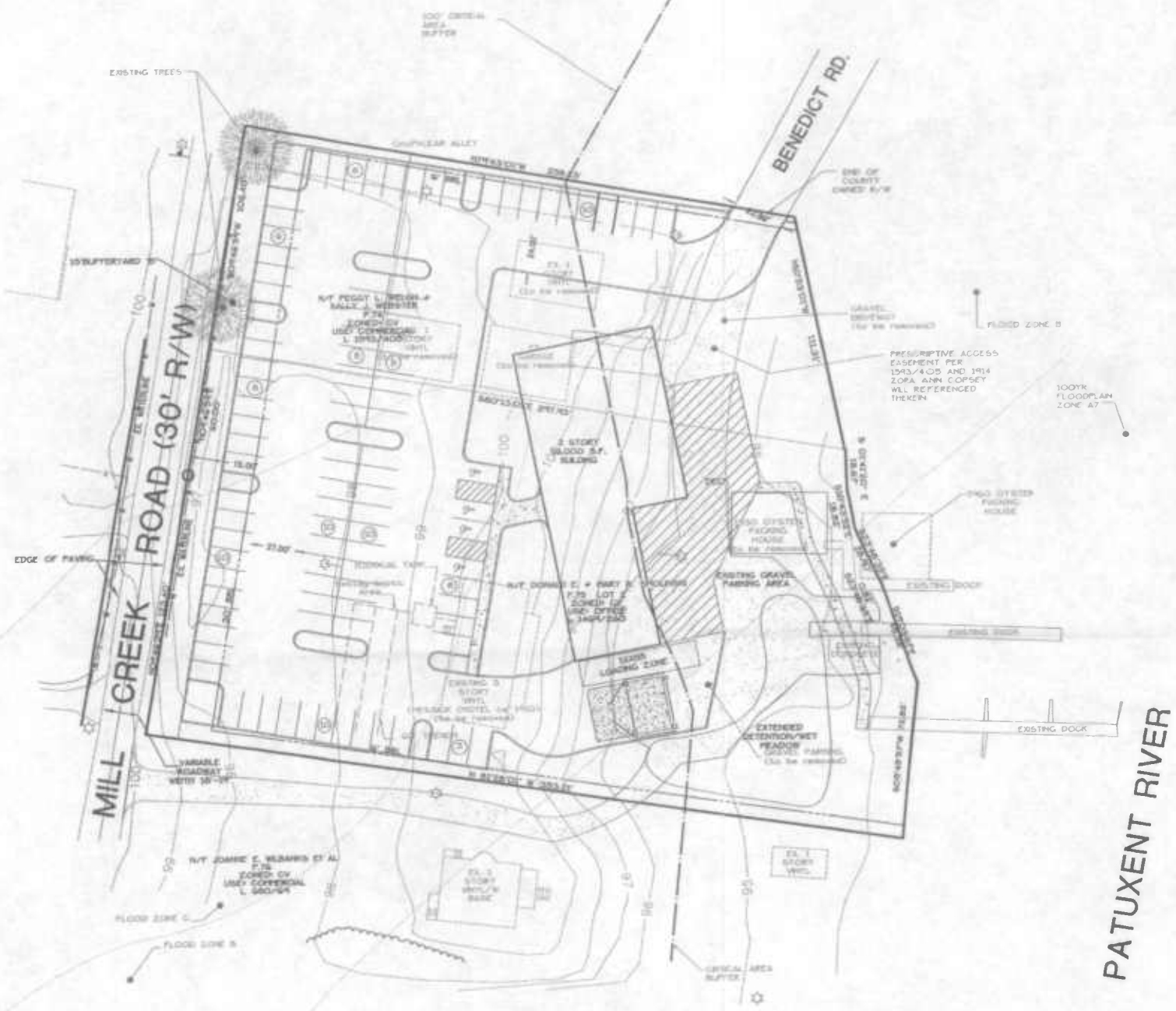
The site contains a residential building, historically the Messick Hotel, currently vacant. The building may be used for multi-family residential use, as an interim use prior to further development. The long term plan for the property is to develop a restaurant with accessory brewery (pub-brewery), or a standard restaurant, and limited commercial retail. The plans for long-term development are pending implementation of the County's plans to extend community sanitary sewer to Benedict. Construction of the sewer is scheduled to begin in late 2008.

Development of the property is projected to cost approximately \$1,500,000. The incentive for the financial commitment is the likelihood of success, based on the waterfront village location. The applicant's objective to develop an upscale restaurant use will likely enhance the tourism potential of Benedict, is consistent with the CV Zone, and is consistent with the County's objective for net fiscal impact to the County.

- (b) The proposed commercial development will promote the County's objective for no less than 50% of the total Growth Allocation acreage to be reserved for commercial and/or industrial use.
 - (c) The property is fully within the LDZ, and is not adjacent to the RCZ. Therefore the requested Growth Allocation will not affect the RCZ.
8. §297-134.I. Growth Allocation Plan: The Growth Allocation plan contains the required elements, including the following:
- (a) Justification and discussion, of how the project meets the Growth Allocation location and design criteria in 297-134.B. & C., is provided above. See 1. Ownership and Location, and 2. Design Criteria.
 - (b) Justification and discussion, of how the projects meets or exceeds the design standards listed in 297-134.E., is provided above. See 4. (c).
 - (c) The Applicant proposes to start construction after sanitary sewer is extended to Benedict. Construction of the sewer extension is projected to begin in late 2008. Once the development of the project property is initiated, completion is expected to be within one year.
 - (d) Fiscal impact is discussed above, under 7 (a).
 - (e) The proposed Commercial development will be located and designed to be consistent with the Charles County Comprehensive Plan, compatible with the County Neighborhood Conservations District, Village Center, and with the Commercial Village base zone designation. The design goal for the site is to provide functional and architectural compatibility with, and enhancement of, the rural service center and village character of Benedict. Consistency with Chapter 4, Growth management and Land Use, is achieved by contribution to commercial use objectives, including "...Concentrate commercial uses primarily in the currently developed portions of the Mattawoman Basin and in the Towns of La Plata and Indian Head and secondarily in the development districts and **village centers** rather than sprawling along the County's major roads." The project will be consistent with Chapter 9, Natural Resource Protection, with the commitment to protect and enhance values associated with habitat and water quality. The design process will emphasize innovative stormwater management through the best management practices and conservation landscaping.
 - (f) The proposed development site is located within the waterfront village of Benedict, where the setting comprises a mix of village-scale residential and commercial use. A marina exists nearby to the south. To the north is a waterfront restaurant, a church and the community's fire house. The view

from the site across the Patuxent River includes the Benedict Bridge and the rural shoreline of Calvert County.

- (g) A site plan exhibit is attached, illustrating the necessary components of the proposal as required.



- SITE TABULATIONS**
- Tax Map # 49, Parcel 73, Lot
 - Grid 10 Tax Map # 49, Parcel 74, Grid 10
 - Zone: CV - Village Commercial
 - Development Proposal: restaurant/brew pub, or standard restaurant.
 - Water Category: W1 Sewer Category: SBE
 - The Property is Located in Flood Zones A7, B and C Per Firm Panel # 240089 0020 B.
 - Site Zone Regulations

Description	Maximum	Provided
Front "SR"	1.0 Ac.	1.95 Ac.
Side "SR"	30'	30'
Rear "SR"	8'	8'
Max Height	10'	10'
Intensity (FAR)	36'	36'
Max ISR	0.35	0.186
	14.30	0149
 - Building Footprint: 8'000 s.f.
 - Gross Buildable Area
1st Floor = 8,000 SF Retail
2nd Floor = 8,000 SF Vacant
 - Paved Area: 1,273.51 SF (Gravel Surface)
 - Parking Requirements
Required: 1 SP/200 SF Gross Floor Area = 16,000/200 = 80 Spaces
4 Handicap Spaces
80 Total Parking Spaces Provided
99 Parking Spaces
4 Handicap Spaces
99 Total Parking Spaces
 - Bufferyards Required: None.
 - Wetlands: None
 - Forest Conservation: Not Required The Site Contains: 0.00 SF Forested Area Forest Cleared: 0.00 SF Forest Conservation Required: 0.00 SF
 - Stormwater Management: None. Disturbed Area = 0.00 SF
 - Critical Area Overlay Zone: Afterstation Required = 15% of Gross Site Area = (0.15)(1.95 AC) = 12,741 SF
 - This is not a boundary survey.
 - Percent Impervious Surface Calculations
Existing Impervious Surface = 13,496.00 S.F.
Existing Percent Impervious = 13,496.00 S.F./84,942.00 S.F. = 15.89%
Existing Percent Impervious to be removed
Existing building = 1,222 S.F./84,942.00S.F. = 1.43%
Existing gravel = 9078 S.F./84,942.00S.F. = 10.69%
Total Percent Impervious to be removed: 10,296 S.F./84,942.00=12.12%
Proposed Impervious Surface = 52,227.00 SF
Proposed Total Percent Impervious=52,227.00 S.F./84,942.00 S.F.=61.49%
 - Per Critical Area Map #49 this property is in the Buffer Exempt Area.



VICINITY MAP SCALE: 1"=2,000'
TAX MAP: 49 GRID: 10 PARCEL: 75 Lot: 2

LEGEND

	PROPERTY LINE
	EDGE OF PAVEMENT
	FENCE LINE
	CONTOUR LINE
	EXISTING GRAVEL
	EXISTING CONCRETE
	FLOOD ZONE LIMIT LINE
	100' CRITICAL AREA BUFFER LINE

Rev. No.	Construction Revision	Rev. Date
1		

SITE PLAN
BENEDICT ON
THE PATUXENT
9TH ELECTION DISTRICT
CHARLES COUNTY, MARYLAND



SDP#

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DONALD E. SPOLINSKI
ST. LEONARD, MD 20688
LA PLATA, MD 20646
CDD: 449-3388

SHEET 1 OF 1
DATE: 08-17-07
PROJECT: 0490-0701
SCALE: 1"=30'