

## WEST MONTGOMERY COUNTY CITIZENS ASSOCIATION

P.O. Box 59335 • Potomac, Maryland 20854

Founded 1947

December 18, 2022

D. Lee Currey, Director  
Water and Science Administration  
Maryland Department of the Environment (MDE)  
Montgomery Park  
1800 Washington Blvd., Ste. 4502  
Baltimore, MD 21230-1718  
[lee.currey@maryland.gov](mailto:lee.currey@maryland.gov)

**Subject:** Request Disapproval of Certain Proposed Amendments to the Montgomery County Water and Sewer Plan and Sewer Category Change Requests

Dear Director Currey:

On October 25, 2022 the Montgomery County Council adopted three resolutions for the following:

- (1) Resolution No. 19-1423 Proposed amendments to the text of the County's existing Ten-Year Water and Sewer Plan;
- (2) Resolution No. 19-1425 Five related sewer category changes based on those amendments; and
- (3) Resolution No. 19-1426 One sewer category change not based on the proposed amendments.

For the reasons set forth in the attached materials, we request that the following proposed amendments and the six sewer category change requests contained in those resolutions be disapproved pursuant to Section 9-507 Md Code, Environment Article:

1. New Chapter 1 Section II.G.5. Community Service for Commercial Land Uses and Related Category Change Requests WSCCR 20-TRV-14A: Transquest and WSCCR 20-TRV-15A: Travilah Oak (ATTACHMENT 1)
2. Revisions to Chapter I Section II.G.3.: Community Service for Properties Abutting Community System Mains and related Category Change Requests WSCCR 20-TRV-03A: Ashwani & Janak Arora and WSCCR 20-TRV-05A: Ravinder & Rita Kapoor (ATTACHMENT 2)
3. New Chapter 1 Section II.G.3.c: Transfer of an Abutting Mains Single Service Connection Qualification and related Sewer Category Request WSCCR 20-TRV-09A: Sami and Siham Ainane (ATTACHMENT 3)
4. Category Change Request WSCCR 21-TRV-03A: David Mohebbi (ATTACHMENT 4)

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In addition to the clear bases requiring disapproval described below, we note our additional concerns. Every one of these amendments and related category changes are being proposed solely to satisfy the requests of six individual owners of RE-2 (2 acre) developed properties in Potomac. Several have been denied multiple times in the past. The assumption appears to be that the initial costs of construction of these new mains, all in low density areas and some over a mile long with engineering challenges, will be paid for by the property owners. However, even if they can afford to build these extensions, some entirely in public rights of way, ensuring the adequacy of design, capacity, construction and “eternal” maintenance and response to failures becomes the responsibility of WSSC and its ratepayers. This at a time when WSSC financing for sewer service, especially in Unserved and Underserved areas, is a major priority and challenge.

Furthermore, the unconventional, unprecedented nature of each and the urgency in getting them pushed through before October 31, 2022 was palpable and reflected throughout in staff reports and testimony and comments by Council Members. Staff repeatedly cautioned that these were changes raising multiple issues and that they were subject to disapproval by MDE. In addition, although technically beating the Election Year Prohibitions by six days, all the Council members were losing their current Council seats. All were either standing for reelection to the Council just days later or were running for other elective offices during this election year.

We have tried to provide citations and links to what we believe are the critical exhibits and testimony within this Word document. However, this is often unwieldy given the hundreds of documents and hours of testimony. Each statement that we make can be verified in the records of these amendments and the requests, some of which go back many years. If there is a need for additional verification, please tell us and we will forward the link or the documents themselves to you. If you have any questions, please feel free to contact us. Thank you very much for your consideration of our request for disapproval of certain proposed amendments to the Montgomery County Water and Sewer Plan and sewer category change requests.

Sincerely,

/s/  
Kenneth Bawer  
WMCCA Board Member

/s/  
Susanne Lee  
Vice President  
West Montgomery County Citizens Association

cc:  
Jeannie Haddaway-Riccio, Secretary of Natural Resources  
Department of Natural Resources  
[jeannie.riccio@maryland.gov](mailto:jeannie.riccio@maryland.gov)

Sandra B. Schrader, Acting Secretary of Planning  
Department of Planning

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[sandra.schrader@maryland.gov](mailto:sandra.schrader@maryland.gov)

Attachments

**ATTACHMENT 1**

**Chapter I, Section II.G.5 Community Service for Commercial Land Uses Amendment and Related Category Change Requests WSCCR 20-TRV-14A Transquest and WSCCR 20-TRV-15A Travilah Oak**

This amendment is proposed solely in response to requests for water and sewer extensions made by two property owners. However, the amendment will be applicable and impact all properties outside the current sewer envelope, except those in the Agricultural Reserve and Rural Zones. One property owner is currently operating as Travilah Oak LLC and the other as Transquest LLC. Both are located far outside the public sewer service envelope. Two sewer extensions would be required, each 5,300 ft., and constructed in the public right of way. The Travilah Oak request is for a property zoned commercial NR-0.75 that has been operating as a shopping center on septic for many years. Continued septic use at this site was confirmed in the Potomac Subregion Master Plan including a specific reference to the shopping center. Exhibit A. Current tenants include a convenience store, a day care center, a Domino's Pizza, a dry cleaner, a veterinary clinic, a K9 Aquatic Center, a restaurant, a nail salon, and miscellaneous offices.

The Transquest request is for a 2-acre lot zoned RE-2 (residential 2 acre) developed with a single-family home and located diagonally across from the Travilah Oak shopping center. Commercial zoning for the site was specifically rejected in the Potomac Subregion Master Plan. Exhibit B. Transquest states it wants to build a 135-seat restaurant on the property, a use barred in this RE-2 zone. He proposes to do so under the guise of a Country Inn. This use is likewise barred in this RE-2 zone except if, when, and as approved as a Conditional Use by the Office of Zoning and Administrative Hearings. (Montgomery County Zoning Code at Section 7.3.1). Transquest LLC has not submitted an application for a conditional use for the property and no commercial use has been approved for the site.

[https://www.montgomerycountymd.gov/OZAH/Application\\_and\\_Notices.html](https://www.montgomerycountymd.gov/OZAH/Application_and_Notices.html)

The shopping center owner has applied for sewer service multiple times and was joined recently by Transquest. All these requests have been denied because it is the undisputed, unanimous finding of the County's DEP, the County Executive, and the Montgomery County Planning Board that public sewer to these sites is barred under the Potomac Subregion Master Plan. Approval would require amending the Subregion Master Plan to deal with these two requests. A Countywide amendment is not required. As a result, a conscious decision was made to defer action on these requests and any related amendments. It was repeatedly and specifically stated by the County Executive that nothing regarding these requests would be included in the current proposed updates to the Water and Sewer Plan. The County Executive transmitted the proposed update of the Water and Sewer Plan to the County Council for consideration and specifically stated that these two requests and any related policy changes were not included. Exhibit C. The County Council in turn posted the official public hearing notice and transmitted the County Executive updates to the Water and Sewer Plan to the Montgomery County Planning Board and WSSC. These did not include the requests or any potential policy change or amendment to address the requests. Exhibit D. As a result, they were not the subject of the Council Public Hearing and likewise not the subject of the Montgomery County Planning Board public hearing, deliberations or recommendations regarding the Water and Sewer Plan Update. They were also not subject to comment by WSSC.

It was not until October 17, 2022, one day before the County Council straw vote on the entire Water and Sewer Plan that the language of the proposed amendment was disclosed to the public for the first time, albeit even then buried in a Staff Report.

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[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2022/20221017/20221017\\_TE2.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2022/20221017/20221017_TE2.pdf)

The proposed amendment must be disapproved for the following reasons.

1. No required public hearing. The proposed amendment violates Md.Code.Ann., Environment Sec. 9-503(d) which requires that before the County Council “adopts any amendment to its county plan” the County Council must “(1) Conduct a public hearing on the ...amendment...and (ii) Give the principal elected official...notice of the...amendment at least 14 days before the hearing.” It is undisputed that no public hearing was conducted regarding the proposed amendment.

2. No required Montgomery County Planning Board review and certification. The proposed amendment also violates Md.Code.Ann., Environment Secs. 9-506 (a)(1)(i) and (ii) which require that before the County Council “may adopt [an]...amendment to the county plan” the Council must “submit the... amendment to each official planning agency that has jurisdiction in the county, including any comprehensive planning agency with areawide jurisdiction, for review and comment within a 30-day period for consistency with planning programs for the area; and (ii) The county planning agency shall certify that...the amendment is consistent with the county comprehensive plan.” It is undisputed that the proposed amendment was never submitted to the Montgomery County Planning Board and was never certified as consistent with the county comprehensive plan.

3. The proposed amendment is inconsistent with basic land use and sewer service plans, policies and statutes. Except for the Agricultural Reserve and certain Rural zones, under the proposed amendment sewer can be extended by right anywhere outside the planned community service envelope for any commercial or merely proposed commercial use. This results in a clear conflict with the sewer provisions of the Potomac Subregion Master and likely any master plans and sector plans for areas outside the community sewer envelope. It is inconsistent with the core structure and principles for the planning, construction, financing, and maintenance of sewer service set forth in the County Water and Sewer Plan. County Water and Sewer Plan at Chapter 1, Sections I-IV. It is inconsistent with and in fact the antithesis of State statutes governing Smart Growth, including the Tiering System which focuses infrastructure growth within the established sewer envelope. County Water and Sewer Plan, Chapter 2, section III.A. Legal Requirements and Other Policy Guidance including Figure 2-48: Smart Growth Areas and Figure 2-F-10: Land Use, Zoning, Population Density, and General Sewerage Service Envelope. As such the amendment violates a basic objective of the Water and Sewer plan to: “Support the State of Maryland Smart Growth initiatives that direct State funding for public services and infrastructure to identified growth areas and promote the use of onsite water supply and wastewater disposal systems to limit development density in the Agricultural Reserve and lower-density wedge area.” County Water and Sewer Plan at Chapter 1, Section 1.A Plan Goals and Objectives.

4. The proposed amendment allows unlimited numbers of extensions by right to any commercial uses or possible commercial uses anywhere outside the envelope, no matter the size or type of commercial use or the length of the extension or number of abutting properties that can hook up. Because it places no limits on the amount and type of infrastructure that can be constructed, it creates potentially massive financial and capacity issues for WSSC. This in conflict with the detailed calculations and planning approaches set forth in the County’s Water and Sewer Plan: Chapter 1 Section III General Policies for Water Supply and Sewage Systems Facilities, Section IV Water and Sewage Systems Financing, and Chapter 4 Sewerage Systems. While the Amendment was never given a public hearing and required

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review and comment by WSSC, the Agency had described the types of technical and resource issues it will face if it is enacted. In its review of the Travilah and Transquest requests for example, it listed multiple unresolved issues it identified in the construction and operation of the two 5,300 ft lines to those sites, including that WSSC, not the property owners, will be responsible for the perpetual maintenance and repair of them. Exhibit E. Additional system wide issues concerning the amendment itself were identified by WSSC in a statement inserted in the October 3, 2022 Staff Report. These include not just the design and approval of the engineering plans but also the capacity of the entire system given that it will involve “properties outside the planned sewer envelope (not previously assumed in capacity calculations) which would drain into the Potomac Interceptor where WSSC Water is subject to average and peak flow allocations.” Exhibit F.

5. The plain language of the amendment is internally inconsistent and illogical and it bars approval of the Travilah and Transquest requests.

A. It states it is to support “commercial service... such as...day-care facilities” but then also states that properties eligible are restricted to “commercial uses as defined in the Montgomery County Zoning Ordinance.” Day care facilities are specifically not a commercial use under the Zoning Ordinance. They are Institutional Uses. Exhibit G.

B. Eligible properties include not just commercial properties but also “those...with proposed commercial uses” and includes this - “[p]roperties with residential structures ...proposed to be converted to a commercial use may be considered for community service.” It requires no evidence of approval of a commercial use – just a wish. Commercial uses are governed by the strict requirements of the zoning code and if the property is not already approved for a commercial use it would require enactment of a Zoning Text Amendment (ZTA) or approval of a Conditional Use (CU). Such is the case of the Transquest property zoned RE-2 and specifically denied commercial use in the Potomac Subregion Master Plan. But approval for sewer would be by right under the proposed amendment and there are no limits on when the proposed commercial use has to become an actual commercial use, if ever. What happens if a property owner goes ahead and constructs the sewer main but does not seek or obtain approval for a commercial use or does but just doesn’t construct or operate a commercial use. Can an existing or newly constructed non-commercial use hook up now that they abut the main? And can others all along the main hook up under the abutting mains or failed septic polices. How will this possibly be enforced given that all a property owner need do is to continue to say that they are still planning a commercial use.

C. The proposed amendment states that with four exceptions, “[t]he provisions of this... policy (allowances, restrictions, procedural requirements) parallel those established in the Private Institutional Facilities (PIF) policy (see II.G.4, preceding)”. This statement is at worst dead wrong or at the least incomprehensible. The PIF provisions are extensive and the amendment clearly does not parallel those in the PIF policy nor even identify those that do apply.

For example, the PIF policy has this restriction at II.G.4.a.: “PIF Uses Affected by Specific Master Plan Service Policy Recommendations This policy cannot be used to justify the provision of community service where a local area master plan specifically recommends against the use of community service for PIF uses, or for any use in general.” Since there is no exception from this policy in the proposed amendment, presumably it applies. As a result, the Travilah and

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Transquest sewers requests are barred because they would violate the clear requirements of the Potomac Subregion Master Plan.

Further PIF restrictions include the following. Do they likewise apply to requests made under the proposed amendment or not? The proposed amendment is entirely unclear.

- No new WSSC Water owned and operated pumping stations can be required.
- It cannot open up service to other ineligible properties.
- A concept plan must be developed and have been reviewed by the Development Review Committee.
- County Council Case by Case Review is required – cannot be approved administratively.
- Approvals are conditioned upon Planning Board approval of a preliminary subdivision plan which substantially conforms with a concept plan reviewed by the County Council.

6. The proposed amendment violates the regulatory and statutory requirements that underpin the Development Review process. The amendment states that the mere submission of a category request prior to the approval of the amendment results in the waiver of the requirements for a concept plan and its consideration by the Development Review Committee (DRC). Submission of a concept plan and DRC review is critical to ensuring that multiple statutory and regulatory requirements have been met, including but not limited to the Montgomery County zoning and land development requirements, State, Federal and County environmental statutes and regulations, State and County Forest Conservation requirements, and Department of Transportation, State Highway, Rustic Roads, Public Utility and WSSC requirements. The County Council lacks the authority to waive these requirements and the DRC process that ensures compliance with them.

[https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco\\_md\\_comcor/0-0-0-86920](https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_comcor/0-0-0-86920)

<https://montgomeryplanning.org/wp-content/uploads/2017/10/Adopted-and-Approved-Chapter-50-and-59-Administrative-Procedures-Regulations.pdf>

With regard to Travilah and Transquest, it is undisputed that neither has submitted the required concept plan and neither has undergone the required Development Review Process. See Statement of Keith Levchencko, Senior Legislative Analyst, Montgomery County Council at Transportation and Environment Committee meeting on October 3, 2022 at approximately time marker 48:34. Therefore, there was never the required analysis and determination that they met any of the statutory and regulatory requirements applicable to development on their properties. MDE must therefore disapprove this amendment because it waives these requirements and neither the County Council nor MDE has the authority to waive the Federal, State and local statutes and regulations applied and enforced through the DRC process.

**ATTACHMENT 2**

**Revisions to Chapter I, Section II.G.3.: Community Service for Properties Abutting Community System Mains and related Sewer Category Requests WSCCR 20-TRV-03A: Ashwani & Janak Arora and WSCCR 20-TRV-05A: Ravinder & Rita Kapoor**

We do not oppose the sewer category request to allow the Arora property to hook up to the main that currently abuts their property. This approval can be done immediately administratively without any amendment to the Water and Sewer Plan. We request that you disapprove this proposed amendment to the abutting mains policy that would allow extensions to other parts of a property that do not abut the main and to other properties that would then also abut the extended main. Such extensions are not necessary because the qualifying property already is eligible and can be approved administratively. The proposed amendment is particularly egregious because on its face it will, through its application to the Kapoor property, facilitate a violation of the Piney Branch Restricted Access Sewer Policy. Both the Planning Board and the County Executive recommended denial in part because it would result in a violation of the Piney Branch Restricted Access Sewer Policy.

The amendment does not require any evidence of a technical inability to hook up. There are no limits to ensure they are not, as here, using it to facilitate a violation of special protection area restrictions or Master Plan provisions regarding sewer service in low density areas.

Furthermore, the amendment bizarrely does not even require that the property that already abuts and provides the sole basis for what could be long extensions and multiple other properties to abut must actually construct the main and hook up to it. In fact, here the Aurora property owners have no intention of doing so. See this recent request for subdivision of the Aurora property accepted by Park and Planning Staff on December 1, 2022. It includes the current Aurora house and its septic system and 3 new lots. All four, including the current house, will be developed on septic, with no construction of or connection to community sewer mains.

<https://eplans.montgomeryplanning.org/UFS/33770/106885/07-PREL-120230050-003.pdf/07-PREL-120230050-003.pdf> [V3/07-PREL-120230050-003.pdf](https://eplans.montgomeryplanning.org/UFS/33770/106887/01-SOJ-120230050.pdf/01-SOJ-120230050.pdf)

<https://eplans.montgomeryplanning.org/UFS/33770/106887/01-SOJ-120230050.pdf/01-SOJ-120230050.pdf> [V2/01-SOJ-120230050.pdf](https://eplans.montgomeryplanning.org/UFS/33770/106887/01-SOJ-120230050.pdf/01-SOJ-120230050.pdf)

So, under the proposed amendment, the Kapoor property owners, who do not abut a main, but are now receiving a category change, could build the main extension entirely by themselves and thus make themselves a main that they could then abut. This turns the abutting mains policy upside down and facilitates development and sewer sprawl in low density areas and in violation of policies such as the Piney Branch Restricted Access Policy.

A primary objective of the Piney Branch Restricted Access Policy is to “limit the growth of public sewer-dependent development within and near this environmentally-sensitive watershed, particularly within the areas of the watershed zoned for one-and two-acre development.” Water and Sewer Plan at Appendix C: Exceptional Service Policies and Recommendations II.L.: Piney Branch Watershed. The Kapoor and Arora and Kapoor properties are zoned RE -1 and RE-2 respectively and both are clearly within the Piney Branch Watershed.



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In order to be eligible for community sewer service, properties within the Piney Branch watershed must satisfy at least one of six very specific conditions. The owners of the Kapoor property have requested community sewer service multiple times in the past. It is clear that the property does not satisfy any of the conditions, is precisely the type of property that is not to receive community service, and the requests were denied. Now, through the proposed amendment the Council has knowingly approved what it hopes is a work around that contradicts and undermines the Piney Branch restrictions and miraculously now makes the Kapoor abut a main and therefore be eligible for community service. This amendment will apply throughout the County and provide endless extensions to properties that are clearly not eligible for service including those in special protection and other low-density areas.

**ATTACHMENT 3:**

**New Chapter 1, Section II.G.3.c : Transfer of an Abutting Mains Single Service Connection Qualification and related Sewer Category Request WSCCR 20-TRV-09A Sami and Siham Ainane**

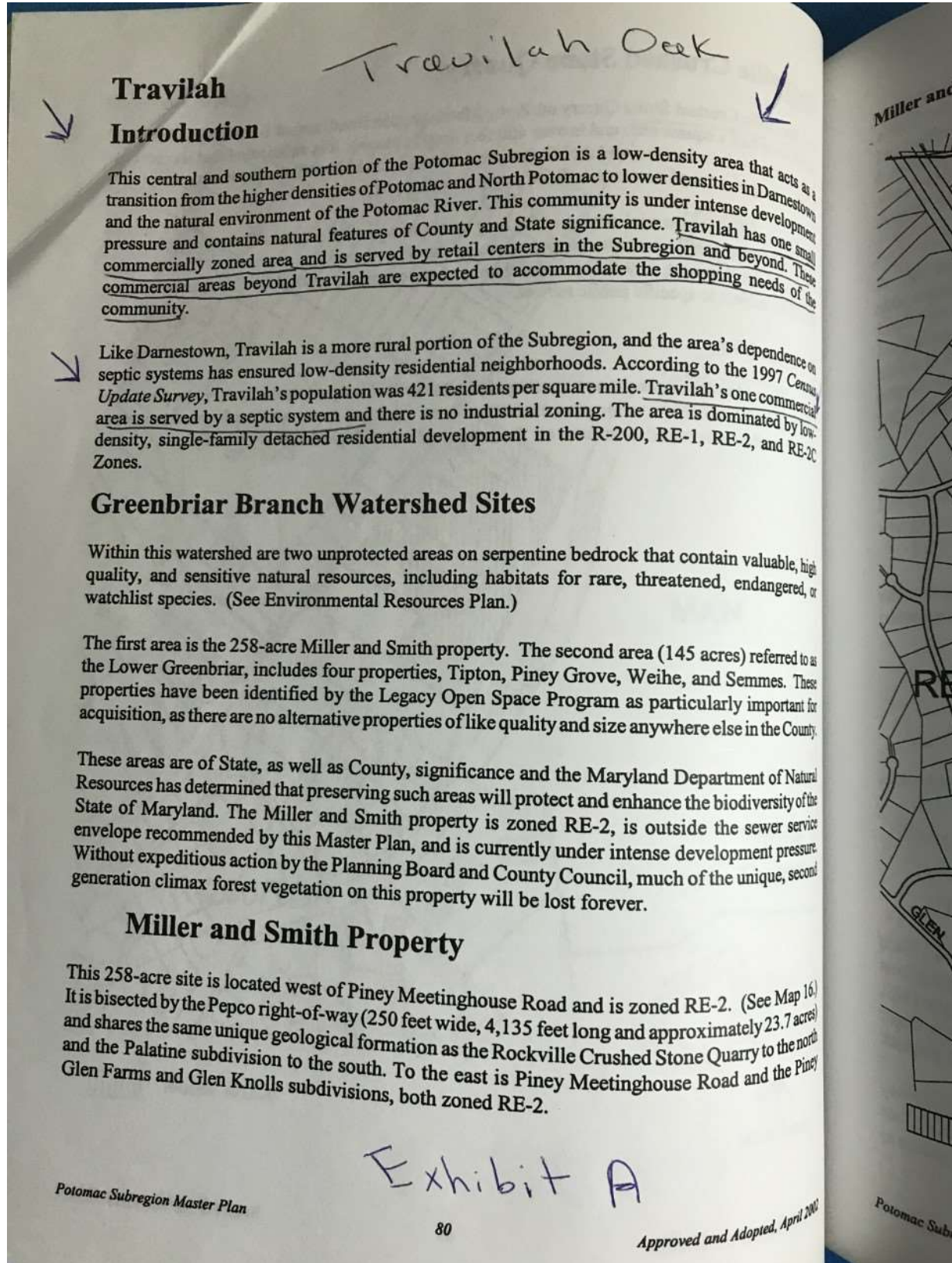
This proposed amendment must be disapproved because it would insert text into the Water and Sewer Plan that is close to incomprehensible, unprecedented, and for which there is absolutely no need. For whatever reason, this property owner made a conscious decision to develop this property a certain way. As a result, they cannot obtain another hook up for a portion of the property. Without reaching back into the specifics of the long history of this request, we recall something about the location of the tennis court. County staff from both DEP and the Planning Board spent considerable effort and several years ago found a solution that would allow the hook up the owner seeks through a minor resubdivision. It requires the submission of a resubdivision application but the property owner has failed to do so. Following a description of the convoluted text and the highly unusual nature of the amendment, Council Staff confirmed that there was a straightforward administrative solution and that the amendment is solely to save the property owner the bother of having to spend the time and effort to submit the application. See Statements of Keith Levchenko, Senior Legislative Analyst, Montgomery County Council, during the Transportation and Environment Committee Meeting on October 17, 2022 beginning at approximately time marker 1:33 and at the County Council Session on October 25, 2022 at approximately time marker 2:42.

**ATTACHMENT 4:**

**County Council Resolution No 19-1426 WSCCR 21-TRV-03A David Mohebbi**

This proposed extension of public sewer service must be disapproved because it is undisputed that there has been no finding of a documented non-repairable septic failure on the property as required by Chapter 1, Sections II.G.2.a. and III.C.4.a. Nor is there any other basis for a category change. A future connection to the property was being pursued under the Peripheral Sewer Policy. Then the home owner began to raise questions about a possible septic problem. Council, County Executive, and DEP staff repeatedly stated that if that was the case, DPS and the property owner just needed to meet on site and if a failure was documented an extension could be approved immediately administratively. Council staff stated repeatedly that because there was no documented failure there was no basis for approval and that the category change approval was subject to disapproval by MDE. See for example the statements of Keith Levchenko, Senior Legislative Analyst, Montgomery County Council at the October 17, 2022 Transportation and Environment Committee meeting beginning at approximately time marker 1:39.

EXHIBIT A:



## Travilah

### Introduction

This central and southern portion of the Potomac Subregion is a low-density area that acts as a transition from the higher densities of Potomac and North Potomac to lower densities in Darnestown and the natural environment of the Potomac River. This community is under intense development pressure and contains natural features of County and State significance. Travilah has one small commercially zoned area and is served by retail centers in the Subregion and beyond. These commercial areas beyond Travilah are expected to accommodate the shopping needs of the community.

Like Darnestown, Travilah is a more rural portion of the Subregion, and the area's dependence on septic systems has ensured low-density residential neighborhoods. According to the 1997 *Census Update Survey*, Travilah's population was 421 residents per square mile. Travilah's one commercial area is served by a septic system and there is no industrial zoning. The area is dominated by low-density, single-family detached residential development in the R-200, RE-1, RE-2, and RE-2C Zones.

### Greenbriar Branch Watershed Sites

Within this watershed are two unprotected areas on serpentine bedrock that contain valuable, high quality, and sensitive natural resources, including habitats for rare, threatened, endangered, or watchlist species. (See Environmental Resources Plan.)

The first area is the 258-acre Miller and Smith property. The second area (145 acres) referred to as the Lower Greenbriar, includes four properties, Tipton, Piney Grove, Weihe, and Semmes. These properties have been identified by the Legacy Open Space Program as particularly important for acquisition, as there are no alternative properties of like quality and size anywhere else in the County.

These areas are of State, as well as County, significance and the Maryland Department of Natural Resources has determined that preserving such areas will protect and enhance the biodiversity of the State of Maryland. The Miller and Smith property is zoned RE-2, is outside the sewer service envelope recommended by this Master Plan, and is currently under intense development pressure. Without expeditious action by the Planning Board and County Council, much of the unique, second-generation climax forest vegetation on this property will be lost forever.

### Miller and Smith Property

This 258-acre site is located west of Piney Meetinghouse Road and is zoned RE-2. (See Map 16.) It is bisected by the Pepco right-of-way (250 feet wide, 4,135 feet long and approximately 23.7 acres) and shares the same unique geological formation as the Rockville Crushed Stone Quarry to the north and the Palatine subdivision to the south. To the east is Piney Meetinghouse Road and the Piney Glen Farms and Glen Knolls subdivisions, both zoned RE-2.

**EXHIBIT B:**

Reiver Property

Transquest

This two acre site, zoned RE-2, is located in the northeast quadrant of the intersection of Travilah and Glen Roads. The Property is surrounded on three sides by the single-family detached houses of the Belvedere, Travilah Park, and Greenbriar Estates subdivisions, is zoned RE-2, and retains a single-family detached residential character. A small commercial convenience center is located diagonally across the intersection from this site. The owner has requested O-M zoning, with a schematic development plan, arguing the need for small office in the area, and that the proximity of the existing structure to the Glen and Travilah rights-of-way limits its use for residential purposes.

Even on well and septic, and with the safeguards of a schematic development plan, this site is not appropriate for office use. Such a change would constitute an undesirable precedent in the RE-2 Zone.

**Recommendation**

- **Retain the existing RE-2 zoning, but allow appropriate special exception uses.**

**Tobytown**

The Tobytown community is bounded by River Road and Pennyfield Lock Road, approximately five miles west of Potomac Village (see Map 22). The Tobytown Cemetery, which contains the remains of its founders, is the last original site remaining in the community. The Tobytown Cemetery is a master planned historic site, #25/014, and is described in Appendix C.

Tobytown was established in 1875 by William Davis, Ailsie Martin, and Emory Genus. The community's first residents were former slaves. With the exception of one two-story house, all the original fifteen houses were one-story houses with one, two, and three bedrooms. The community had no post office or school (Montgomery County denied residents' request to construct a school in 1917) and classes were held in the Baptist Church.

The community prospered as most residents worked on surrounding farms as laborers, gardeners, domestics, and cooks. However, in the 1950s and 1960s, demand for rural labor declined as the area developed with exclusive residences. With limited job and educational opportunities, Tobytown began to suffer; most of the seventy-five residents lacked indoor plumbing and electricity and had no garbage collection.

In 1965, the County health department issued an order to improve sanitation conditions, including wells and outhouses. The County Council designated Tobytown as an urban renewal area in 1967 and directed the Housing Authority to establish a nonprofit development corporation. Thus, the Tobytown Development Corporation, consisting of residents, interested citizens, and government staff, was appointed.

The U.S. Department of Housing and Urban Development approved the development corporation's housing plan in January 1972 and new townhouses were occupied by December 1972. Today, Tobytown has approximately 125 residents in 26 townhouses on 16 acres of land.

Exhibit B



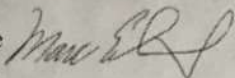
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EXHIBIT C-1:

MEMORANDUM

June 2, 2022

TO: Gabe Albornoz, President  
Montgomery County Council

FROM: Marc Elrich, Office of the County Executive 

SUBJECT: Executive Draft 2022 Comprehensive Water Supply and Sewerage Systems Plan

The Department of Environmental Protection (DEP) has completed an update to the County's Approved 2018 Comprehensive Water Supply and Sewerage Systems Plan ("Plan" or "Ten-Year Water and Sewer Plan"). This 2022 Executive Draft Plan update is being transmitted to the County Council for review and approval. The Approved Plan by the County Council will then be submitted to the Maryland Department of Environment (MDE) and other State agencies for final review and adoption.

This 2022 Executive Draft Plan contains policy and technical updates on the County's public water supply and sewerage systems that have changed since the 2018 comprehensive update of the Plan. The updated 2022 Executive Draft Plan is enclosed in PDF format. Also, enclosed are copies the Plan's Executive Summary.

The following summarizes major policy updates and revisions included in the Executive draft Plan:

***CHAPTER 1: OBJECTIVES AND POLICIES: Updates & Revisions***

- **Special Policies for Water and Sewer Service: Abutting Mains Policy (Section II.G.3):**
  - Allows for consideration of limited extensions from existing abutting mains in cases where an extension would allow for better placement of the service connection relative to the building receiving new service. This would also allow another property that abuts the new extension to qualify for community service under this policy. (II.G.3.a) (Related category changes: Kapoor and Arora properties, Boswell Ln.)
  - Revises the option for multiple service connections to require onsite system testing to determine the number of connections that may be used for dwelling units using public systems service. (III.G.3.c.)
- **Special Policies for Water and Sewer Service: Private Institutional Facilities (PIF) policy (Section II.G.4.):**
  - Clarifies that the Council's consideration of concept plans for new PIF cases and PIF use revision cases will be focused primarily on imperviousness and new main extension issues. (II.G.4.c. and II.G.4.d.)

Exhibit C-1

EXHIBIT C-2:

Executive Draft 2022 Comprehensive Water Supply and Sewerage Systems Plan  
June 2, 2022  
Page 2

- Added an emphasis on consistency with established imperviousness limitations. (II.G.4.c.)
- **Individual Systems: Onsite Systems Management Program (Section III.C.d.):** Updated the discussion to explain the program's status and the proposed legislation for a septic tank pumping requirement.
- **Water and Sewerage Systems Financing: Underserved and Unserved Communities (Section IV.):** Updated to reflect the current status of the WSSC Water – Bi-county Work Group.

APPENDIX C: EXCEPTIONAL SERVICE POLICIES AND RECOMMENDATIONS: Updates & Revisions

- **Glen Hills Study Area and Potomac Area RE-1 and RE-2-Zoned Properties (Sections II.E. & II.M.):** Added that properties within the City of Rockville are ineligible for the use as part of the Potomac peripheral sewer service policy.
- **Jonesville and Jerusalem (Section II.G.):** Added a discussion of WSSC Water flow monitoring that shows sewage flows into the Poolesville WWTP repeatedly exceeding the agreed upon limit of 20,000 gallons per day. The discussion further cautions that pending a study of inflow/infiltration into the system, either more stringent limitations on sewer connections in the service area may be needed (such as a moratorium) or WSSC Water may need to discuss additional capacity at the WWTP.
- **Riverwood Drive (Section II.N.):** Revised the restricted community sewer service area to include only the subdivisions of Carr's Addition and Fox Meadow. This reflects properties already served by community sewerage systems and properties that cannot logically access the Riverwood Drive sewer main.

↙ Also note that the County Council's previous decision to develop a policy to allow for public service for commercial development outside the sewer envelope (White House Country Inn and Potomac Oaks Center) is not part of this update. To avoid a delay of the update to the water and sewer plan, it is proposed that the new policy regarding commercial development be completed as an independent update. ↘

The staff at DEP is prepared to arrange for a meeting to brief you on some of the more important issues included in this updated Draft Plan and review other related details. Please let me know if you have any questions or need additional information.

ME:ah

Enclosures

cc: Adriana Hochberg, DEP, Acting Director  
Vicky Wan, DEP, Acting Deputy Director  
Steven Shofar, DEP, Division Chief, Intergovernmental Affairs Division  
Nasser Kamazani, DEP, Senior Engineer, Intergovernmental Affairs Division  
Alan Soukup, DEP, Senior Planner, Intergovernmental Affairs Division  
George Dizelos, DEP, Environmental Planner III, Intergovernmental Affairs Division

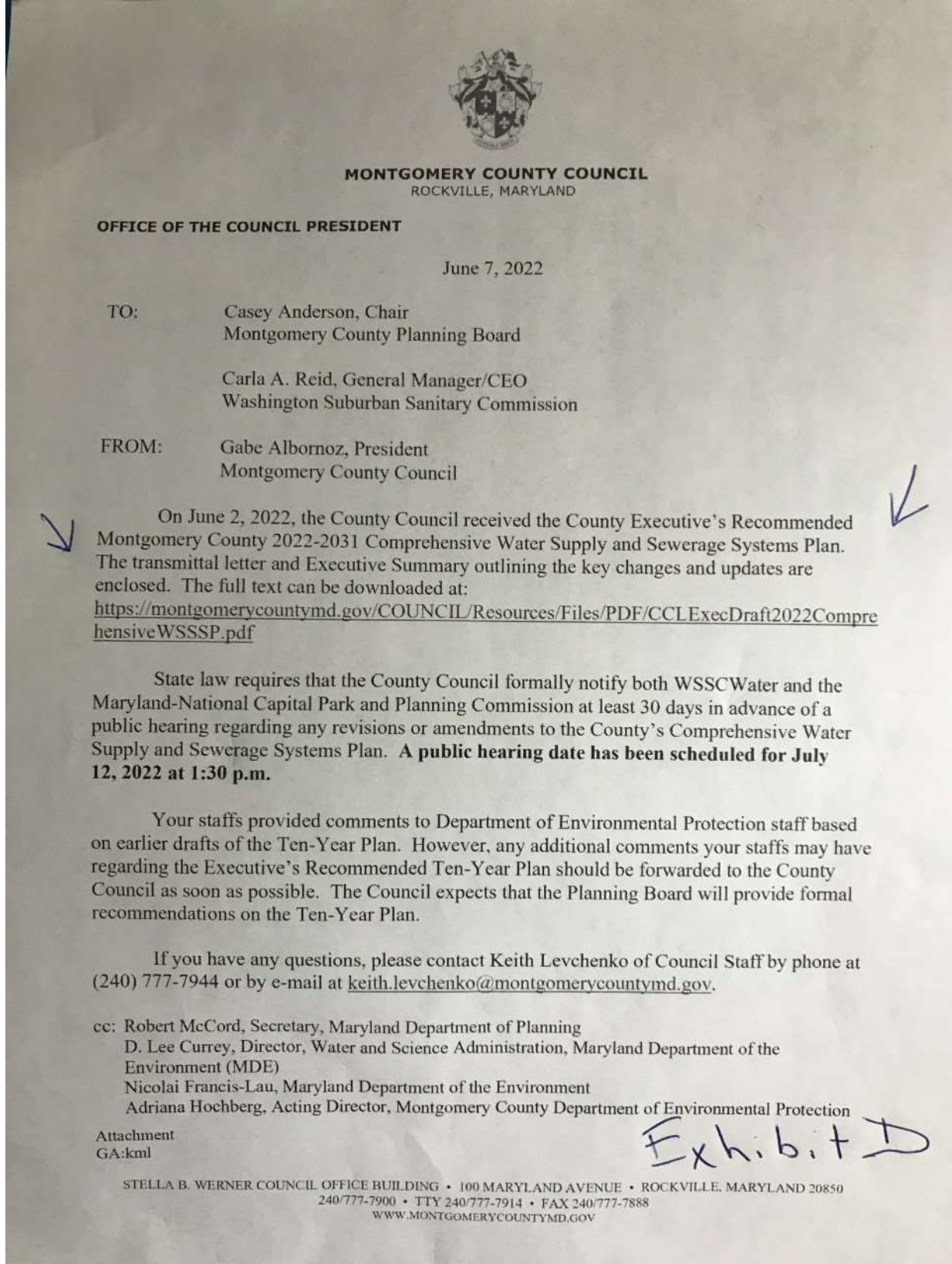
Exhibit C-2

(4)



WEST MONTGOMERY COUNTY CITIZENS ASSOCIATION

EXHIBIT D:



**MONTGOMERY COUNTY COUNCIL**  
ROCKVILLE, MARYLAND

**OFFICE OF THE COUNCIL PRESIDENT**

June 7, 2022

TO: Casey Anderson, Chair  
Montgomery County Planning Board

Carla A. Reid, General Manager/CEO  
Washington Suburban Sanitary Commission

FROM: Gabe Albornoz, President  
Montgomery County Council

On June 2, 2022, the County Council received the County Executive's Recommended Montgomery County 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan. The transmittal letter and Executive Summary outlining the key changes and updates are enclosed. The full text can be downloaded at:  
<https://montgomerycountymd.gov/COUNCIL/Resources/Files/PDF/CCLExecDraft2022ComprehensiveWSSSP.pdf>

State law requires that the County Council formally notify both WSSC Water and the Maryland-National Capital Park and Planning Commission at least 30 days in advance of a public hearing regarding any revisions or amendments to the County's Comprehensive Water Supply and Sewerage Systems Plan. **A public hearing date has been scheduled for July 12, 2022 at 1:30 p.m.**

Your staffs provided comments to Department of Environmental Protection staff based on earlier drafts of the Ten-Year Plan. However, any additional comments your staffs may have regarding the Executive's Recommended Ten-Year Plan should be forwarded to the County Council as soon as possible. The Council expects that the Planning Board will provide formal recommendations on the Ten-Year Plan.

If you have any questions, please contact Keith Levchenko of Council Staff by phone at (240) 777-7944 or by e-mail at [keith.levchenko@montgomerycountymd.gov](mailto:keith.levchenko@montgomerycountymd.gov).

cc: Robert McCord, Secretary, Maryland Department of Planning  
D. Lee Currey, Director, Water and Science Administration, Maryland Department of the Environment (MDE)  
Nicolai Francis-Lau, Maryland Department of the Environment  
Adriana Hochberg, Acting Director, Montgomery County Department of Environmental Protection

Attachment  
GA:kml

EXHIBIT D



EXHIBIT E-1:

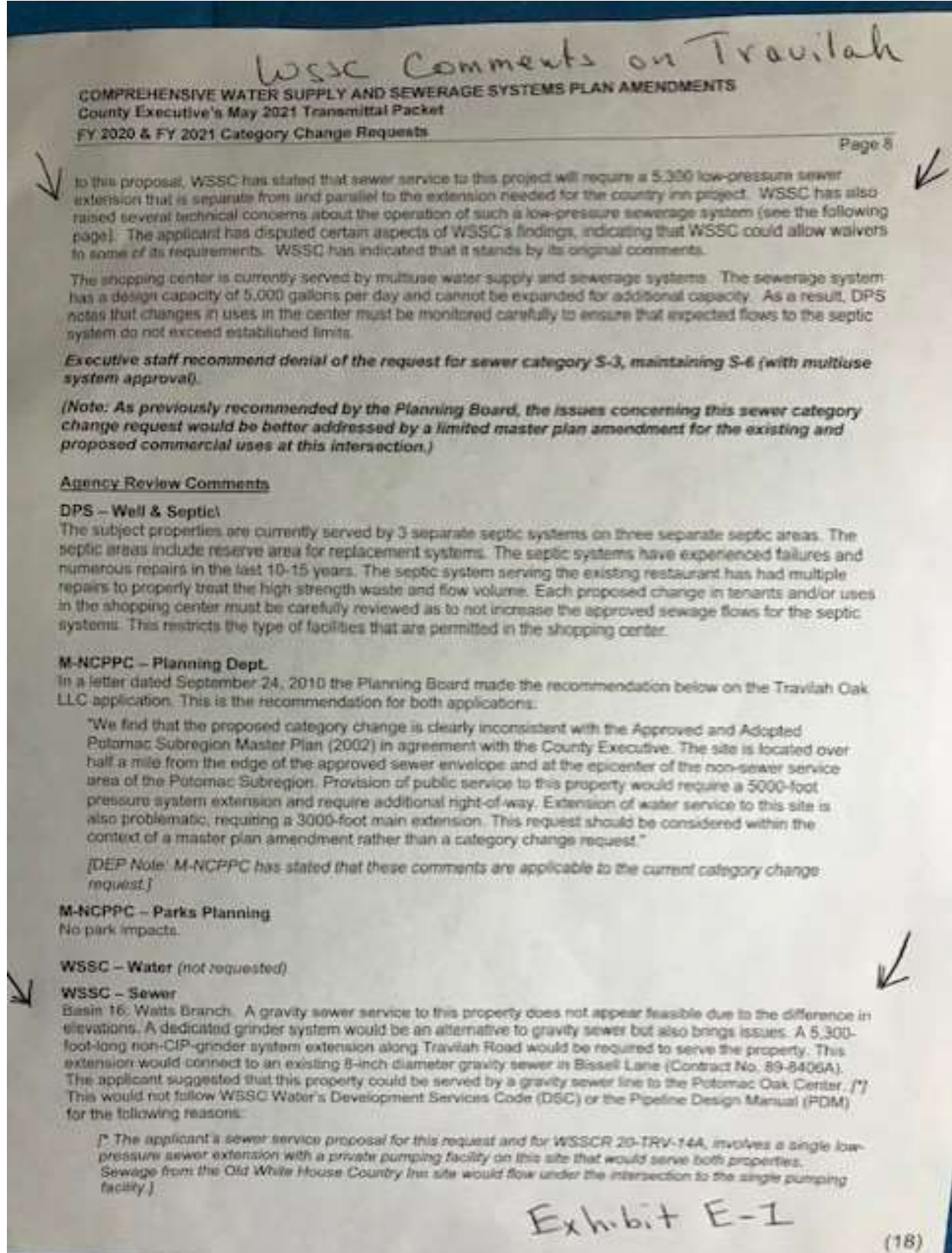


EXHIBIT E-2

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS  
 County Executive's May 2021 Transmittal Packet  
 FY 2020 & FY 2021 Category Change Requests

Page 9

- 1) A private sewer extension within a public road dedication is not allowed. A public gravity sewer from the Old White House site to the Potomac Oak Center would not be allowed. A public sewer system cannot discharge into a private sewer system.
- 2) The Potomac Oak Center and the Old White House would be two non-residential customers served by the low-pressure sewer. Non-residential customers may not share a low-pressure sewer. (DSC page 88 and PDM Appendix C-7)
- 3) Detention time in the pressure sewer prior to discharge to the gravity system would be greater than 2 hours. Detention times would contribute to the generation and release of hydrogen sulfide and odors near the residential dwellings along Bissel Lane downstream of the transition manhole and at air valves along Travilah Rd. (PDM Appendix C-7, PDM S-26.1 & PDM S-26.1)
- 4) The proposed LPSS would pump downhill. Uphill pumping is preferred in a pressure sewer system where the point of discharge to gravity system is at a higher elevation than the rest of the system, to maintain positive pressure throughout the system. (PDM S-25.3) Vacuum pressure can occur at high points elevated above the transition manhole, when pumps shut down. Air vacuum valves would be needed. (PDM S-26.2) Air release and air and vacuum valves require frequent maintenance for them to function as intended. (PDM S-26.1)
- 5) The pressure sewer profile would have high and low points. Continuously rising profiles are preferable. Sewer air vacuum and air release valves will be required at all high points in the system. (PDM S-25.3) [See page 24.]
- 6) Through an internal hydraulic analysis, it was determined the minimum velocity of 3.0 fps could not be obtained.

Interceptor capacity is adequate Treatment capacity is adequate.

Maps, Plans, Etc.:	Applicants' Request Letters .....	Pages 12 - 21
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Exhibit E-2

EXHIBIT F-1

**ADDENDUM**  
T&E COMMITTEE #1  
October 3, 2022

**Worksession**

**MEMORANDUM**

October 3, 2022

TO: Transportation and Environment (T&E) Committee  
FROM: Keith Levchenko, Legislative Analyst  
SUBJECT: **Worksession:** Ten-Year Comprehensive Water Supply and Sewerage Systems Plan 2022-2031

Attachments to this Memorandum

- Executive's Recommended Ten-Year Comprehensive Water Supply and Sewerage Systems Plan 2022-2031 Excerpts
  - Chapter 1 Section 1.E.3.a: Washington Suburban Sanitary Commission (WSSC Water, WSSC) (©1-3)
  - Chapter 1 Section 2.G.4: Community Service for Private Institutional Facilities (©4-7)

Subsequent to the release of the original Staff Report for T&E Committee #1 for October 3, 2022, Council Staff received additional information and comments from Executive Branch and WSSC Water staff which are discussed below.

1. **Additional Expected Participants:** Tom Hilton, Planning Division Manager, Engineering and Construction Department, WSSC Water
2. **Potomac Peripheral Sewer Policy – Palatine Area Restriction:** Mr. Hilton of WSSC Water staff, provided additional information regarding capacity issues in the Palatine low pressure sewer system. He also noted WSSC Water's support for the County Executive's and Council Staff's recommendation to defer the Mohebbi request pending further study. Mr. Hilton's comments are below:
  - *While improvements have been made to the Palatine low pressure sewer system, they were intended to rectify issues existing customers were having with the current system and were never intended to enable a system expansion*
  - *WSSC's comments on the category change request for the Mohebbi property, dated 7/26/21, never indicated system capacity was available. In fact, a statement was made that "downstream system upgrades might be required."*
  - *The Palatine low pressure system is a large and complex system in which individual grinder pumps pump into a network of small diameter pressurized pipelines. Capacity analyses of such a large and complex system require the use of a computerized*

Exhibit F-1



EXHIBIT F-2:

*hydraulic model that simulate the pumped flows from each home into the piping network to see if the system pressures are adequate to support the connection of additional grinder pumps at the locations being contemplated.*

- *We therefore support, the Staff's recommendation to defer this request, pending a further review of the hydraulic capacity of the Palatine low pressure sewer system to determine if the current system is capable of supporting one or more additional sewer service connections to the system and what, if any, improvements will be required.*
3. **Abutting Mains Policy – Main Extensions** – As noted in the original Staff Report, Council Staff supports the current policy which does not include a provision for applicants to request main extensions as part of their abutting mains application. However, if the Committee is supportive of the Executive's recommendation which would allow main extensions under certain circumstances, Council Staff had noted in the original Staff Report a suggestion that only improved properties should be eligible to connect to these extensions. Based on further discussions with Executive Branch staff, Council Staff suggests that the language be modified to allow extensions only to "improved properties or recorded lots." This would still preclude properties not otherwise developable from connecting but would avoid a situation where an abutting vacant property would have to first be developed on septic before being eligible to connect to the abutting main.

4. **Draft Commercial Sewer Service Policy** –

- WSSCWater Approval of Main Extensions - Mr. Hilton of WSSCWater provided comments noting that WSSCWater's review of potential main extensions also entails a case-by-case review of system capacity. This review is particularly important when involving properties outside the planned sewer envelope (not previously assumed in capacity calculations) which would drain into the Potomac Interceptor where WSSCWater is subject to average and peak flow allocations. Mr. Hilton's comments are below:

- *The WSSC wastewater collection and conveyance system was never planned to accommodate properties outside of the sewer service area. It was planned for existing and future customers within the service area; however, there may be some limited capacity for properties outside the service area, but it would have to be evaluated on a case by case basis as noted below.*
- *Additionally, several sewer basins within Montgomery County drain into the Potomac Interceptor which is owned and operated by DCWater. The 2012 Blue Plains IMA stipulates average and peak flow allocations at every point of connection into the Potomac Interceptor. These allocations were not set to incorporate future flows from properties outside of the sewer service area.*
- *WSSC is in the process of updating its computerized hydraulic sewer models for each sewer basin. These models are calibrated to current average and wet weather flow conditions and then are used to project future dry and wet weather flows, which account for future growth based on the MWCOG's demographic projections. The results for all of the sewer basins within Montgomery County are not yet final for this update to the 10-Year Water and Sewer Plan update. When the results are final, they will be helpful to determine, what if any, additional capacity may exist for*

EXHIBIT F-3:

properties outside of the sewer service area (both physical pipe capacity and capacity as allowed within the 2012 Blue Plains IMA). This modelling information is expected within the coming months.

- Under the "Options for Consideration", bold bulleted text: Service will require WSSCWater approval of the engineering plans for the main extension serving the property. If not, the category change approval will be vacated. It's not clear by this statement if this approval would also involve an analysis of available system capacity. As a result, we recommend this statement to also include a review and approval of available system capacity.

The WSSCWater approval language in the draft policy was included to make clear that the commercial sewer service policy does not supersede WSSCWater's authority to approve main extensions. Council Staff's intent was that consideration of system capacity is assumed to be part of WSSCWater's review and approval process for main extensions.

With regard to that same language, representatives of the Transquest and Travilah Oak applicants expressed concern with this language, noting that it is not included in other special policies in the Water and Sewer Plan.

The Executive's Recommended Plan, Chapter 1, Section I.E.3.a: Washington Suburban Sanitary Commission, includes language regarding WSSCWater's general responsibilities vis a vis the Plan (See ©1-3). However, this language does not include a discussion of WSSCWater's authority to approve main extensions. **Council Staff recommends that language be added to this section regarding WSSCWater's main extension approval authority. Council Staff will work with Executive Branch staff on this language. Given that WSSCWater's approval authority is inherent under any general or special policies noted in the Water and Sewer Plan, Council Staff agrees that the WSSCWater approval language in the draft Commercial Sewer Service Policy is not needed and can be removed.**

- Draft Commercial Sewer Service Policy and Private Institutional Facilities (PIF) Policy Comparison - The Executive has not yet transmitted a draft Commercial Sewer Service Policy. However, Executive Branch staff have provided some feedback on Council Staff's draft policy and suggested that the draft Commercial Sewer Service Policies criteria should be considered in the context of the criteria used for the Water and Sewer Plan's Private Institutional Facilities (PIF) Policy. The County's goals are similar in both cases (i.e. providing an opportunity for consideration for the extension of sewer to properties otherwise ineligible to advance broader County interests while minimizing environmental and community impacts). Council Staff agrees it would be helpful to compare these two policies and has prepared a comparison chart below:

Exhibit F-3



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