



Town of Emmitsburg

Mayor Donald N. Briggs

Board of Commissioners,
Timothy O'Donnell, *President*
Clifford Sweeney, *Vice President*
T.J. Burns, *Treasurer*
Joseph Ritz III
Frank Davis

Town Manager
Cathy Willets

Town Clerk
Madeline Shaw

TOWN MEETING AGENDA PACKET MONDAY, JULY 12, 2021 – 7:30 P.M.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. FUTURE MEETINGS

Board of Appeals Meeting: Monday, July 19, 2021 at 7:30 p.m. (Town Office)

Citizen's Advisory Committee Meeting: Tuesday, July 20, 2021 at 7:30 p.m. (Town Office)

Planning Commission Meeting: Monday, July 26, 2021 at 7:00 p.m. (Town Office)

Town Council Meeting: Monday, August 2, 2021 at 7:30 p.m. (Town Office)

4. MEETING ITEMS

A. APPROVE MINUTES: JUNE 21, 2021

B. POLICE REPORT

C. TOWN MANAGER'S REPORT

D. TOWN PLANNER'S REPORT

E. COMMISSIONER COMMENTS

F. MAYOR'S COMMENTS

G. PUBLIC COMMENTS

H. ADMINISTRATIVE BUSINESS (DETAILS ATTACHED)

(A). Youth group use of the Emmitsburg trails.

(B). Update on the American Rescue Plan monies.

I. CONSENT AGENDA: NONE

J. TREASURER'S REPORT

K. PLANNING COMMISSION REPORT

L. AGENDA ITEMS (DETAILS ATTACHED)

(1). Approval of ordinance 2021-11, purchases, contracts and bid procedures, for consideration.

(2). Award ADA sidewalk curb ramp project contract for consideration.

(3). Approval of Rutter's and Emmitsburg East Industrial Park II deeds of easements and authorize the Mayor to sign the agreements on behalf of the Town for consideration.

(4). Award forestry stand 10 logging bid for consideration.

(5). Hold public hearing and approval of Resolution 2021-01R, amendment to Chapter 3 of the 2015 Comprehensive Plan, for consideration.

(6). Zoning text amendment application, proposed Ordinance 2021-12, which would amend Town Code Section 17.08.190. The Board shall either: (1) Deny the application; or (2) Forward to the Planning Commission for recommendation & set public hearing for August 2, 2021.

(7). Renaming of ballfield #7 in Memorial Park for consideration.

(8). TENTATIVE – Approval of an access easement on the WWTP property for the Frederick County Creek Re-Leaf program and authorize Mayor to sign on behalf of the Town for consideration. **POSTPONED**

(9). Approval of Resolution 21-6R, State of Maryland Capital Grants Project Water Clarifier grant submittal authorization, for consideration.

M. SET AGENDA FOR NEXT MEETING: AUGUST 2, 2023

5. SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONS

6. ADJOURN

300A South Seton Avenue • Emmitsburg, Maryland 21727

Phone 301.600.6300 • Fax 301.600.6313 • info@emmitsburgmd.gov • www.emmitsburgmd.gov

ZOOM MEETING ACCESS INFORMATION:

Topic: Town Meeting: July 12, 2021

Time: Jul 12, 2021 07:30 PM Eastern Time (US and Canada)

Join Zoom Meeting:

<https://us02web.zoom.us/j/85808107179>

Meeting ID: 858 0810 7179

Passcode: 21727

One tap mobile

+13017158592,,85808107179#,,,,*21727# US (Washington DC)

+16465588656,,85808107179#,,,,*21727# US (New York)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 646 558 8656 US (New York)

+1 312 626 6799 US (Chicago)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

Meeting ID: 858 0810 7179

Passcode: 21727

Find your local number: <https://us02web.zoom.us/u/kbEzb4B2i>

The town meeting will begin at 7:30 p.m. If you would like to speak during public comment or an agenda item, you must sign-up to speak BEFORE 7:25 p.m. Sign-up to speak by emailing your name, address and topic you'd like to speak on to mshaw@emmitsburgmd.gov or calling (301) 600-6300.

You can also watch the town meeting live on cable channel 99. A recording will be posted to YouTube after (@Town of Emmitsburg).

A. APPROVE MINUTES: JUNE 21, 2021

**MEETING MINUTES
JUNE 21, 2021
VIRTUAL TOWN MEETING
EMMITSBURG TOWN OFFICE**

Present: *Elected Officials* - Mayor Donald Briggs; Commissioners: Timothy O'Donnell, President; Clifford Sweeney, Vice President (arrived late with prior notice); T.J. Burns, Treasurer, Joseph Ritz III; and Frank Davis. *Staff Present* - Cathy Willets, Town Manager; Madeline Shaw, Town Clerk; Amy Naill, Code Enforcement Officer; and Zachary Gulden, Town Planner. *Others Present* – Deputy Ben Whitehouse.

I. Call to Order

Commissioners O'Donnell, Burns, Ritz III, and Town Manager Cathy Willets joined the meeting via the Zoom teleconferencing platform. A quorum being present, Commissioner Timothy O'Donnell, President of the Board of Commissioners, called the June 21, 2021 town meeting to order at 7:30 p.m. Pledge of Allegiance was recited. Upcoming meetings were announced.

Approval of Minutes

Motion: Commissioner Ritz III motioned to accept the June 7, 2021 town meeting minutes as presented; second by Commissioner Burns. Yeas – 4; Nays – 0; Absent – 1 (Sweeney). The motion passed.

Police Report:

Deputy Whitehouse presented the police report from May 2021 (exhibit attached). Deputy Ahalt has returned to patrol in Emmitsburg as of June 21, 2021.

Commissioner Comments:

- Commissioner Burns: He sends his regrets to the Phelan family regarding the passing of Jim Phelan, former Mount St. Mary's basketball coach. He also congratulated the Catocin High School baseball team on winning the 2021 state championships.
- Commissioner Ritz III: He sends his condolences to the Phelan family as well. He attended the grand opening of the Mason Dixon Mixin new business in Town.
- Commissioner Davis: He is working on getting a speed camera for East Main Street and getting the deputies more overtime opportunities to provide better night time coverage in Town. He requested a future agenda item on naming one of the little league fields in honor of Coach Phelan, the first president of the Emmitsburg Little League.
- Commissioner O'Donnell: He attended the Mason Dixon Mixin grand opening. He also congratulated the new comic book store Wookie Walker on their grand opening coming in July 2021. Community Heritage Day will be occurring on Saturday, June 26, 2021 and he encouraged the public to attend.

Mayor's Comments:

Mayor Briggs expressed his condolences to the Phelan family. He attended the grand opening of Mason Dixon Mixin and also the funeral for former Emmitsburg election judge and Ethics Commission member Barbara Weedon. He was able to obtain \$147,980 in Program Open Space grant funding for a new bathroom/concession stand building that would go in E. Eugene Myers Community Park between the two baseball fields.

Public Comments:

None.

Administrative Business:

- (B.) Discussion of the Status of the North Gate Park:** The Board gave consent to move the admin business item up to allow for public comment. Commissioner Sweeney arrived at 7:54 p.m. Ms. Willets and Mr. Gulden presented the item. There have been discussions of the Town taking over ownership of the North Gate park. Due to the layout of the park and requirements for the existing storm water pond on the property and the inability to subdivide the park, the town attorney and town staff do not recommend the Town take over ownership. In addition, town staff does not recommend setting a precedent that pocket parks in developments will be taken over by the Town. Instead of purchasing the park, the Town can enter into a maintenance agreement with North Gate if the Board desires; however, initial costs to bring the park up to date will be \$6,091. The Board discussed options including offer future grants to Home Owners Associations (HOAs) to aid with pocket park maintenance. *Sabrina Paxton-Daily, North Gate HOA* – Ms. Paxton-Daily explained the HOA has difficulty with maintenance and upkeep of the park and would like to see the Town more involved via a maintenance agreement. Ms. Paxton-Daily will bring the maintenance agreement to her residents and bring a formal request back to the Board in the future.
- (A.) Approval of the FY 2022 Frederick County Sheriff’s Office contract for consideration:** Ms. Willets presented the item. The FY2022 contract will be \$298,022, a \$25,408 increase from FY2021 due to change in the Uniformed Law Enforcement Pay Scale and associated benefit costs as well as an increase to health insurance, retirement benefits and fleet fuel. *Motion:* Commissioner Sweeney motioned to approve the FY2022 Frederick County Sheriff Office’s contract as presented; second by Commissioner Davis. Yeas – 5; Nays – 0. The motion passed.
- (C.) Discussion related to opening the town office for town meetings for consideration:** Ms. Willets presented the item. County Executive Jan Gardner has made the decision to keep County buildings closed to the public and require face masks in all County buildings until September 1, 2021 due to the COVID-19 virus. Since the town office resides on the second floor of the Emmitsburg Community Center, a County owned building, the town office would need to remain closed to the public until September 1, 2021 unless the Board would like to request permission for an earlier opening from the County Executive. The Board gave unanimous consent to allow the Mayor to send a formal request to the County Executive for opening the town office to the public starting July 12, 2021 with the public being required to wear face masks and make appointments with staff beyond regular front desk items.

Consent Agenda:

None.

II. Agenda Items

Agenda #1 - Impact fee and park & rec fee in-lieu study presentation: TischlerBise, Inc. was hired to complete an impact fee study in June 2021. Karl Nichols with TischlerBise introduced himself and gave a presentation on study findings. Impact fees are a one-time fee imposed on new developments for the purpose of providing new or expanded public capital facilities required to serve the new development. A PowerPoint with a 10-year park facility demand was presented considering population growth for Emmitsburg. Results from the study indicate the Town’s parks and recreation impact fee is currently inadequate and TischlerBise recommends increasing the fee from \$1,200 per dwelling unit to \$3,898 per single-family dwelling unit and \$2,069 per multi-family dwelling unit stated in Policy P21-02 that will come before the Board for approval later tonight. The Town currently collects impact fees that go towards roads maintenance but have been informed this is not an allowed action. Town staff will reach out to other municipalities to see what impact fees are used for and requested the Board send any ideas of future growth project ideas to staff. At a future town meeting the Board will need to determine what the impact fee will be set at and what the fee will be used for.

Agenda #2 - Public hearing and approval of Ordinance 21-05 for consideration: Commissioner O'Donnell called the public hearing to order at 9:22 p.m. Mr. Gulden explained the hearing was advertised on June 2, 2021 in the Frederick News Post. Ordinance 21-05 amends Title 16 and assigns a 3-year expiration date to improvement plats among other items as recommended by the town attorney. The ordinance was initially presented to the Board at the May 3, 2021 town meeting and forwarded to the Planning Commission. The Planning Commission voted unanimously to approve the ordinance at the May 24, 2021 meeting with Commissioner Ritz III abstaining during that meeting. Commissioner Davis and Ritz III expressed concern over the improvement plat expiring due to circumstances out of the developers' hands, such as the State taking extensive time to review the plat. There is no option for the plat expiration date to be extended after the 3-years ends. If expired, the plans would need to be resubmitted to the Planning Commission for new approval. Commissioner O'Donnell invited public comment. There was no public comment. *Motion:* Commissioner Ritz III motioned to close the public hearing at 9:29 p.m.; second by Commissioner Burns. Yeas – 5; Nays – 0. The motion passed. *Motion:* Commissioner Sweeney motioned to accept Ordinance 21-05 as presented; second by Commissioner Burns. Yeas – 3 (O'Donnell, Sweeney, Burns); Nays – 2 (Ritz III and Davis). The motion passed.

Agenda #3 - Public hearing and approval of Ordinance 21-06 for consideration: Commissioner O'Donnell called the public hearing to order at 9:34 p.m. Mr. Gulden explained the hearing was advertised on June 2, 2021 in the Frederick News Post. Ordinance 21-06 changes include, but are not limited to, updating to the hotel and motel definitions in Title 17 to protect the town and ensure a multi-family dwelling would not be approved in the general commercial district. The ordinance was initially presented to the Board at the May 3, 2021 town meeting and forwarded to the Planning Commission. The Planning Commission voted unanimously to approve the ordinance at the May 24, 2021 meeting with Commissioner Ritz III abstaining during that meeting. Commissioner O'Donnell invited public comment. There was no public comment. *Motion:* Commissioner Burns motioned to close the public hearing at 9:39 p.m.; second by Commissioner Ritz III. Yeas – 5; Nays – 0. The motion passed. *Motion:* Commissioner Burns motioned to accept Ordinance 21-06 as presented; second by Commissioner Ritz III. Yeas – 5; Nays – 0. The motion passed.

Agenda #4 - Approval of Policy P21-02 – Park, Recreation, and Open Space Fee In-Lieu for consideration: Mr. Gulden presented the agenda item. Since Ordinance 21-05 was approved, the park and recreation fee in-lieu will need to be set. Town staff recommends \$3,898 per single-family dwelling unit and \$2,069 per multi-family dwelling unit to support TischlerBise, Inc. recommendation in agenda item one. The fee will only be charged to new developments requesting to not build a park. Commissioner Davis stated opposition for the ordinance due to the steep fee increase. *Motion:* Commissioner Sweeney motioned to accept Policy P21-02 as presented; second by Commissioner Burns. Yeas – 4; Nays – 1 (Davis). The motion passed.

Agenda #5 - Approval of Ordinance 21-08, update to Chapter 3.08 Impact Fees, for consideration: The agenda item has been postponed.

Agenda #6 - Approval of Resolution 21-02R, Community Legacy façade improvement grant submittal authorization, for consideration: Mr. Gulden presented the agenda item. The \$75,000 grant application is submitted annually by the Town and provides funding for the Town's Community Legacy façade improvement grant program. *Motion:* Commissioner Ritz III motioned to accept Resolution 21-02R as presented; second by Commissioner Davis. Yeas – 5; Nays – 0. The motion passed.

Agenda #7 - Approval of Resolution 21-04R, Community Legacy Emmitsburg Restroom and Concession Stand Building grant submittal authorization, for consideration: Ms. Shaw presented the agenda item. The Town is applying for up to \$169,000 in Community Legacy grant funds to install a prefabricated restroom and concession stand combo building in E. Eugene Myers Community Park near the disc golf course and between the two baseball fields. The total project cost is estimated at \$316,000, which will also be funded

through a Program Open Space grant. The Town would also like to fundraise for the project. *Motion:* Commissioner Davis motioned to approve Resolution 21-04R as presented; second by Commissioner Sweeney. Yeas – 5; Nays – 0. The motion passed.

Set Agenda Items for July 12, 2021 Town Meeting

1. Approval of ordinance 2021-11, purchases, contracts and bid procedures, for consideration.
2. Award ADA sidewalk curb ramp project contract for consideration.
3. Approval of Rutter's and Emmitsburg East Industrial Park II deeds of easements and authorize the Mayor to sign the agreements on behalf of the Town for consideration.
4. Award forestry stand 10 logging bid for consideration.
5. Hold public hearing and approval of Resolution 2021-01R, amendment to Chapter 3 of the 2015 Comprehensive Plan, for consideration.
6. Zoning text amendment application, proposed Ordinance 2021-12, which would amend Town Code Section 17.08.190. The Board shall either: (1) Deny the application; or (2) Forward to the Planning Commission for recommendation & set public hearing for August 2, 2021.
7. Renaming of ballfield #7 in Memorial Park for consideration.
8. *TENTATIVE* – Approval of an access easement on the WWTP property for the Frederick County Creek Re-Leaf program and authorize Mayor to sign on behalf of the Town for consideration.

Administrative Business:

- A. Youth group use of the Emmitsburg trails.
- B. Update on the American Rescue Plan monies.

Motion: Commissioner Ritz III motioned to accept the July 12, 2021 town meeting agenda as modified; second by Commissioner Burns. Yeas – 5; Nays – 0. The motion passed.

III. Sign Approved Text Amendments and/or Resolutions

IV. Adjournment

With no further business, Commissioner Sweeney motioned to adjourn the June 21, 2021 town meeting; second by Commissioner Burns. Yeas – 5; Nays – 0. The meeting adjourned at 10:02 p.m.

Respectfully submitted,

Madeline Shaw, Town Clerk
Minutes Approved On:

B. POLICE REPORT: Presentation by deputies at the meeting.

C. TOWN MANAGER’S REPORT

**Town Manager’s Report
May 2021
Prepared by Cathy Willets**

Streets:

- Staff replaced and repaired some street signs around town.
- Staff conducted monthly street sweeping.
- Staff repaired and replaced some street lights.
- Staff conducted monthly storm drain inlet cleaning.
- Staff picked up #26 streetlight that was damaged due to an accident.
- Staff repaired “Welcome to Emmitsburg” sign on North Seton Ave.
- Staff weed ate and weed killed guardrails on Creamery Rd., Welty Ave., and DePaul St.
- Staff put up flags on street light poles around square for Memorial Day, Flag Day, Community Day and Fourth of July.

Parks:

- Staff conducted daily park checks – trash cans, cameras, dog waste stations, restrooms.
- Staff conducted monthly park maintenance – playground equipment, roads, fences, pavilions, etc.
- Staff sanitizing playground equipment twice a week. Will begin sanitizing bathrooms at same time.
- Staff mowed, trimmed and weed killed in parks.
- Staff put together and installed bleacher at ballfield #7 in Memorial Park.
- Staff installed soffit for the Community Park bandstand.
- Staff weed ate, weed killed and put mulch around all park entrance signs.

Water:

- Rainbow Lake is at the spillway level (16.6 feet).
- The roughing filters are being backwashed two times a day and the DE filters are being done once every other week.
- Well levels (optimum level was determined to be May 2011). Wells #1 & 2 have low usage this month as the demand remains low. Well #3 was brought on for five days and Well #4 was brought on for the month.

	<u>May 2011</u>	<u>May</u>	<u>Change</u>
○ Well #1:	35’	36’	-1’
○ Well #2:	8’	12’	-4’
○ Well #3:	12’	34’	-2
○ Well #4:	108’	128’	-20’
○ Well #5:	10’	OFF	N/A

- Water production and consumption. We produced an average of 247,508 GPD. We consumed an average of 233,489 GPD. The difference is "Backwash Water" ... (10.5%).
 - 23.2% of this water came from wells.
 - 5.8% of this water came from Mt. St. Mary's.
 - 71.0% of this water came from Rainbow Lake.

We purchased 434,580 gallons of water from MSM this month.

Wastewater:

- We treated an average of 446,000 gpd (consumed 233,489 GPD) which means that 47.6% of the wastewater treated this month was "wild water".
- We had no spills of untreated sewage in the month of May. We did not exceed the plant's design capacity any time in the month of May.
- We received about 3.0" of precipitation this month (the average is 4.34"). We have a precipitation **DEFICIT of .21"** over the last six months. The average precipitation for the period from December 1 through May 31 is 21.51". We have received 21.3" for that period.

Trash: Trash pickup will remain Mondays in the month of July.

Meetings Attended:

- 05/03 met with Mayor and Town Accountant re: FY22 budget
- 05/03 conference call with Town Clerk re: Main Street designation
- 05/03 conference call with Town Attorney and Town Planner re: Emmitt Ridge 2
- 05/06 conference call with Town Planner and contractor re: Silo Hill stormwater basin update
- 05/11 meeting with Town Accountant and Clerk re: FY22 budget presentation
- 05/12 conference call with Town Attorney and Town Planner re: Emmitt Ridge 2
- 05/13 conference call with County Executive re: COVID updates
- 05/13 conference call with Town Attorney, Planner and developer re: Emmitt Ridge 2
- 05/13 meeting with staff to review EEIP II plans
- 05/17 conference call with HR
- 05/17 attended town meeting
- 05/18 attended department head meeting
- 05/18 attended support staff meeting
- 05/19 attended MML Part 2 webinar re: American Rescue Plan
- 05/25 Conference call with Town Planner and contractor re: impact fee study
- 05/25 Conference call with Mayor and Planner re: impact fee study
- 05/26 Meeting with deputies

Noteworthy:

- Staff pumps holding tank every 10 days at 8533 Hampton Valley Rd.
- Staff worked the yard waste dumpster twice in May.
- Staff conducted monthly equipment and fire extinguisher maintenance.
- Staff conducted water meter re-reads.
- Staff conducted 17 water shut off's for non-payment for water bills.
- Staff assisted with unclogging sewer line (600 East Main St.)
- Staff conducted use and occupancy inspections for new construction in Brookfield.
- Staff repaired water curb boxes in Southgate.
- Staff attended flagger training refresher class.
- Staff conducted six-month hydrant flushing throughout Town.
- Staff and contractor repaired two water leaks on Waynesboro Pike.
- Backflow preventers have all been certified. The one at the pump station failed. Scheduled to be replaced.
- Wet well wizard was wired, piped in and installed at CRPS.
- Sewer back-up/clog at Insurance Brokers.
- Sump pump at the pressure reducing valve on Frailey Rd. was replaced.
- Staff continues to work with contractor on design and preparations for the water clarifier and waterline work.
- Annual water quality report was completed, submitted to the State. It has been posted to the website and included in the water/sewer bill.

For more information, go to www.emmitsburgmd.gov

PARKING ENFORCEMENT REPORT
May 2021

Overtime Parking	68
Restricted Parking Zone	4
Street Sweeping	
Parked in Crosswalk	
Parked on Sidewalk/Curb	
Parked by Fire Hydrant	
Parked Blocking Street	
Failure to Park between Lines	
Left Side Parking	2
48 Consecutive Hours	
Meter Money	\$ 941.12
Parking Permits	\$ 115.00
Meter Bag Rental	
Parking Ticket Money	\$ 370.00
Total:	\$ 1,426.12

D. TOWN PLANNER'S REPORT

Town Planner's Report

May 2021

Prepared by Zachary R. Gulden, MPA

1. Board of Commissioners (BOC):

- Attended the 5/3 & 5/17 BOC meetings and processed pre/post meeting materials.
- Updated Policy P21-02 based on park fee study results.
- Assisted contractor with impact fee & park fee in-lieu study.
- Assisted with preparation of the Irishtown Road MOU with Frederick County.
- Reviewed the draft impact fee study and provided comments to contractor.
- Worked with County regarding access easement for Creek Re-Leaf program.
- Attended a conference call on 5/11 with contractor regarding impact fee / park fee in-lieu study.
- Attended a conference call on 5/25 with Town Manager, Mayor, and impact fee contractor.

2. Grants:

- Community Legacy grant management:
 - FY20 façade & restoration:
 - Received and processed an application for 304 N Seton Ave.
 - FY21 façade & restoration.
 - FY22 façade & restoration:
 - Worked on grant application.
 - Prepared proposed Resolution 2021-02R, FY22 Community Legacy grant authorization.
- Chesapeake Bay Trust grant management:
 - Rain barrel program:
 - Continued selling rain barrels to Town property owners.
 - Silo Hill SWM basin retrofit design & permitting.
- Community Development Block Grant management:
 - Held a virtual pre-bid meeting on 5/5 & completed meeting minutes.
 - Submitted a Request for Wage Determination and Response to Request.
 - Attended a conference call on 5/14 with grant project manager.
 - Held a virtual bid opening meeting on 5/19.
 - Processed & reviewed bid.
 - Started re-bid process due to only receiving one bid (CDBG requirement).
- Processed 1x COVID micro grant (fund exhausted).

3. Municipal Separate Storm Sewer System (MS4):

- Silo Hill SWM basin retrofit project management:
 - Attended a conference call with contractor & Town Manager on 5/6 for updates on the design plan.
- Tree planting project management.
 - Attended a conference call with the Daughters of Charity on 5/26 regarding tree planting easement.
- Completed the storm water utility feasibility study RFP & advertisement.
- Responded to MDE comments on previous year's permit submittal. Updated current year permit submittal accordingly.

4. Permits & Zoning:

- Processed 12x zoning permit applications:
 - 5x new single-family dwellings (Brookfield).
 - 4x roof replacement.
 - 2x deck.
 - 1x change of use – new business (Dynamic Automotive – 20 Creamery Way)
- Processed 33x backflow preventer permits.
- Processed 1x personal use firewood permit application.
- Prepared sewer enforcement notice for Town Sewer Superintendent.
- Mailed 3x high hazard backflow renewal reminder letters.
- Responded to incident reports.

5. Planning Commission (PC):

- Rutter's, Irishtown Road (Brookfield Lots 1-19), Federal Stone, & Emmitsburg East Industrial Park II project management.
- Emmitsburg East Industrial Park II:
 - Received, reviewed, and prepared staff memo for:
 - Forest Delineation Plan.
 - Preliminary Forest Conservation Plan.
 - Preliminary Subdivision Plat.
- Irishtown Road (Brookfield Lots 1-19)
 - Assisted with preparation of the public works agreement.
 - Assisted with preparation of the Purtell easement/ROW agreement.
 - Assisted with the preparation of the landscape easement agreement.
 - Assisted with the preparation of the temporary grading easement agreement.
 - Attended multiple conference calls on regarding plan, easements, ROW, etc.
- Attended a conference call on 5/3 with Town Manager, Mayor, & Attorney regarding Emmit Ridge 2.
- Created a staff memo for proposed Ordinance 21-05.
- Created a staff memo for proposed Ordinance 21-06.
- Attended a conference call on 5/12 with Town Attorney & Manager regarding Emmit Ridge 2.
- Attended a conference call on 5/13 with Town Attorney, Manager, Mayor, & D.R. Horton representatives regarding Emmit Ridge 2.
- Attended the 5/24 virtual PC meeting and processed pre/post meeting materials.

6. Miscellaneous:

- Forestry 6 & 10 project management.
- Attended a department head meeting on 5/18.
- Created new water meter processing packet.

E. COMMISSIONER COMMENTS

F. MAYOR'S COMMENTS

Meetings attended since last town meeting report:

- June 5, Saturday, 6:00 pm, dinner with Boy Scout troop 727 in Community Park
- June 7, Monday, 7:30 pm Town regularly scheduled monthly meeting (virtual)
- June 14, Monday, 7:30 pm second Town meeting (virtual).
- June 26, Saturday, 39th Emmitsburg Community - Heritage Day.
- June 27 - 30th, Sunday – Wednesday, MML summer conference, Ocean City.
- July 1, Thursday, dedication of four wayside exhibits: John Armstrong/E Main St, Emmitsburg RR station, Frederick Fire Museum glass mural, and White House exhibits/South Seton Ave.
- July 1, Thursday, 11 am, Seton Shrine Museum rededication.
- July 4, Monday. HAPPY 4th!
- July 12, Monday, 7:30 pm Town regularly scheduled monthly meeting (virtual and in person)

G. PUBLIC COMMENTS

H. ADMINISTRATIVE BUSINESS

(a) Youth group use of the Emmitsburg trails: Presentation at meeting by Commissioner O'Donnell.

(b) Update on the American Rescue Plan monies: Presentation at town meeting by town staff.

I. CONSENT AGENDA

NONE

J. TREASURER REPORT

**Town of Emmitsburg
 CASH ACTIVITY as of June 29, 2021**

\$5,755,322	Cash Balance June 1, 2021
131,801	Deposits
<u>-324,057</u>	Withdrawals
\$5,563,066	Operating Balance Forward

Top 10 Check Amounts:

<u>Amount</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Check Date</u>	<u>Check Number</u>
\$40,507	Green Site, LLC	Mini Pavilions	06.02.21	42335
\$29,189	Wantz Chevrolet	2021 Chevy Silverado	06.23.21	42434
\$16,762	RK&K	Water Clarifier Project	06.16.21	42399
\$12,013	UGI Energy Services	Apr 21 Solar Field #2	06.02.21	42352
\$10,555	RSV Pools	Jul 21 Pool Management	06.23.21	42431
\$10,104	UGI Energy Services	Apr 21 Solar Field #1	06.02.21	42352
\$9,540	Metropolitan Tennis Construction	Resurface Tennis Court	06.16.21	42390
\$8,845	Powell, LLC	Legal Services	06.09.21	42382
\$6,871	Republic Services	Jun 21 Refuse Services	06.16.21	42403
\$5,658	RK&K	Pump Station	06.23.21	42430

Check dates 06.01.21 to 06.29.21

K. PLANNING COMMISSION REPORT: Presentation at the meeting.

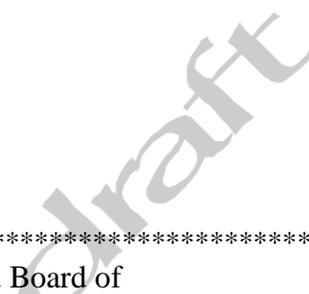
L. AGENDA ITEMS:

AGENDA ITEM# 1. Approval of ordinance 2021-11, purchases, contracts and bid procedures, for consideration: Presentation at meeting by staff.

ORDINANCE SERIES: 2021
ORD. NO: 21 - 11

Page 1 of 11

AN ORDINANCE TO AMEND
TITLE 3
OF THE CODE OF EMMITSBURG
ENTITLED
REVENUE AND FINANCE



BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that Title 3, Revenue and Finance, of the Emmitsburg Municipal Code, be amended as follows:

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in ~~brackets and strike out~~.

Chapter 3.12 - Purchases and Contracts

3.12.010 Purpose.

The purpose of this chapter is:

- A. To provide for the fair and equitable treatment of all persons or firms involved in purchases by the [t]Town;
- B. To assure that supplies, materials, equipment, construction of public improvements or contractual services are purchased efficiently, effectively and at the most favorable prices available to the [t]Town;
- C. To promote competition in contracting; and
- D. To provide safeguards for maintaining a purchasing system of quality and integrity.

3.12.20 Applicability.

Except as otherwise provided herein, the provisions of this chapter shall apply to all contracts made by the [t]Town for the purchase of supplies, materials, equipment, construction of public improvements or contractual services from public funds, including funds in the general accounts, sewer enterprise account and water enterprise account.

3.12.030 Expenditures under [~~twenty~~] **FIFTY** thousand dollars.

- A. Expenditures, including petty cash, for supplies, materials, equipment, construction of public improvements or contractual services involving less than [~~five~~] **FIFTEEN** thousand dollars [~~(\$5,000.00)~~] **(\$15,000.00)** may be made by the mayor, the town manager or the town clerk without the necessity for formal bids or formal approval by the board of commissioners provided the funds have been appropriated in the budget for the use intended.
- B. Except as otherwise provided in subsection 3.12.[~~040B.~~] **04.B. AND 3.12.040.C.**, expenditures, including petty cash, for supplies, materials, equipment, construction of public improvements or contractual services involving [~~five~~] **FIFTEEN** thousand dollars [~~(\$5,000.00)~~] **(\$15,000.00)** or more and less than [~~twenty~~] **FIFTY** thousand dollars [~~(\$20,000.00)~~] **(\$50,000.00)** may be made by the mayor, the town manager or the town clerk without the necessity for formal approval by the board of commissioners; provided, however, that **THE MAYOR, TOWN MANAGER OR TOWN CLERK SHALL MAKE A GOOD FAITH EFFORT TO OBTAIN** at least three (3) written estimates [~~shall be obtained~~] for the particular expenditure and that the funds have been appropriated in the budget for the use intended. **NO FEWER THAN THREE BUSINESSES SHALL BE SOLICITED VIA WRITTEN REQUESTS CONTAINING THE SPECIFICATIONS FOR THE PROCUREMENT; REQUESTS SHALL BE RECORDED AND PLACED IN THE BID FILE.**
- C. In making any expenditures under the authority granted in this section, the acquisition of any item, set of items, project or service shall not be divided in such a manner so as to avoid the cost limitations set forth in this section.

3.12.040 Expenditures over [~~twenty~~] **FIFTY** thousand dollars.

- A. Except as otherwise provided in this section, expenditures for supplies, materials, equipment, construction of public improvements or contractual services involving [~~twenty~~] **FIFTY** thousand dollars [~~(\$20,000.00)~~] **(\$50,000.00)** or more shall be made by written contract in accordance with the procedures set forth in Section 3.12.050.
- B. An expenditure involving [~~twenty~~] **FIFTY** thousand dollars [~~(\$20,000.00)~~] **(\$50,000.00)** or more or an expenditure involving [~~five~~] **FIFTEEN** thousand dollars [~~(\$5,000.00)~~] **(\$15,000.00)** or more and less than [~~twenty~~] **FIFTY** thousand dollars [~~(\$20,000.00)~~] **(\$50,000.00)** [~~(under subsection 3.12.030B.)~~] may be made without competitive bidding or written contract when the town manager determines, after a good faith review of available sources, that there is only one appropriate source for the required supplies, materials, equipment, construction of public improvements or contractual services. A written statement for the basis of the determination that there is only one appropriate source for the required supplies, materials, equipment, construction of public improvements or other contractual services shall be made by the town manager and submitted to the mayor and board of commissioners. [t]The town manager shall conduct negotiations, as appropriate, as to price, delivery and terms. Any such expenditure shall be approved by the mayor and board of commissioners.
- [C.] [~~Where there exists a threat to public health, safety or welfare, the mayor may authorize emergency expenditures for any supplies, materials, equipment, construction improvements or contractual services as may be required to address the threat without the necessity of a written contract or competitive bidding. A written statement for the basis for the emergency and for the selection of a particular contractor or acquisition shall be included in the file with respect to the expenditure. The mayor or the town manager shall promptly notify the board of~~

~~commissioners, in writing, of any emergency expenditure. In the absence of the mayor, the president of the board of commissioners may exercise the authority contained in this subsection C.]~~

[D.] C. The [t]Town may join with other units of government in cooperative purchasing plans when the best interests of the [t]Town would be served. An expenditure involving [twenty] **FIFTY** thousand dollars [~~(\$20,000.00)~~] **(\$50,000.00)** or more [ø] **MAY BE MADE WITHOUT COMPETITIVE BIDDING AND** an expenditure involving [five] **FIFTEEN** thousand dollars [~~(\$5,000.00)~~] **(\$15,000.00)** or more and less than [twenty] **FIFTY** thousand dollars [~~(\$20,000.00)~~] **(\$50,000.00)** [~~(under subsection 3.12.030B.)~~] may be made without [competitive bidding] **OBTAINING WRITTEN ESTIMATES** where:

- (1) The supplier with whom the [t]Town intends to contract offers goods or services on the same terms and conditions as those provided to other state or local governments or their agencies and [which] have arrived at those terms and conditions through a competitive procurement procedure;
- (2) The [t]Town contracts directly with state or local governments or agencies thereof for goods or services when such goods or services were obtained through competitive procurement procedures;
- (3) The [t]Town contracts with a state or local government or agency thereof to provide or receive any work or services of the type the [t]Town or such other government or agency performs for its jurisdiction.

3.12.050 Procedure for sealed bids and written contracts.

A. Except as otherwise provided in this chapter, all written contracts for supplies, materials, equipment, construction of public improvements or contractual services involving [twenty] **FIFTY** thousand dollars [~~(\$20,000.00)~~] **(\$50,000.00)** or more shall be awarded by sealed bids, and the town manager shall advertise for all such sealed bids.

B. The specifications for such sealed bids shall be prepared under the direction of the town manager. [~~The town shall give notice of the request for bid proposals in a newspaper of general circulation in Emmitsburg for a minimum of two weeks prior to the date set for the submission of bids. The notice shall include a brief description of the item or items to be bid, the location where specifications may be obtained for the item or items to be bid, the location at which and the time and date on which sealed bids are to be submitted, and any bond or special conditions to which the item or items may be subject.~~] All sealed bids shall be directed to the town manager[-] **USING THE FOLLOWING GUIDELINES:**

[C. (1) ~~Upon the expiration of the time for submitting bids, an informal bid opening process shall be conducted by the town manager and the head of any department having a direct interest in the bid proposal. Upon the opening of bids, the town manager and the head of the appropriate department shall review the sealed bids and make a preliminary determination as to whether the bids should be submitted to the mayor and board of commissioners for review and decision or whether a request should be made to each bidder for a best and final offer.~~

(2) ~~—The town manager may seek from each bidder their best and final offer. In making such request, no additional information may be provided to the bidders. If a request for a best and final offer is made, such requests shall be presented to each and every bidder submitting a bid.~~

(3) ~~—Within ninety (90) days of the date set for the submission of the bids, the town manager shall, in his or her best judgment, either submit the bids (and, if applicable, all best and final~~

~~offers) to the mayor and board of commissioners for review and consideration or shall recommend that the request for bids be readvertised. If the mayor and board of commissioners determine that the request for bids should be readvertised, the same procedures set forth herein for the initial request shall be followed, and the original bids shall be resealed and retained until such time as a final contract is entered into or the project is abandoned.~~

~~(4) — In all events, all bids submitted shall be and remain confidential until the town manager determines that they should be submitted to the mayor and board of commissioners for review and consideration. Until such time, neither the town manager, nor the head of any department participating in the preliminary review of bids, nor any other employee, agent, officer or official of the town may divulge the content of any bid or any aspect of the bid to any person, board, group, committee, commission, or entity.~~

~~D. — Upon a determination that the bids shall be submitted to the mayor and board of commissioners, the formal opening and consideration of the bids shall be placed on the agenda of a public meeting of the mayor and board of commissioners, and the town manager shall notify each person or entity submitting a bid of the date, time and location for that meeting.~~

~~E. — After public review and consideration of the bids submitted, the mayor and board of commissioners may accept or may reject any and all bids, or it [they] may waive technical defects accept any bid which, in its [their] judgment, is in the best interest of the town. In accepting or rejecting a bid and in awarding written contracts based upon the bids, the town may consider various factors including, but not limited to, the bidder who offers the lowest responsible bid, the quality of the goods and work proposed, the time of delivery or completion, and the responsibility of bidders being considered. The town shall have the absolute right to reject any or all bids and shall not be obligated to accept any bid, including the lowest bid. It may also reject all bids and require the readvertisement of bids.~~

~~F. — Where the securing of sealed bids is impractical, unreasonable or not advantageous to the town, the town manager may institute an alternate procurement method by utilizing the open market. A written statement giving the basis for the determination that the securing of sealed bids is impractical, unreasonable or not advantageous to the town shall be submitted by the town manager to the mayor and board of commissioners. The written statement shall include at least three bona fide quotations or offers and a recommendation regarding the issue. The mayor and board of commissioners may accept or reject the recommendation and the quotations or offers which in its [their] judgment are in the best interest of the town.~~

~~G. — The town may, at any time and in its sole discretion, employ its own forces for the construction or reconstruction of public improvements without advertising for (or re-advertising for) or receiving bids.]~~

(1.) BID PACKET. A REQUEST FOR PROPOSAL (RFP) PACKET SHALL BE ISSUED AT LEAST TEN (10) BUSINESS DAYS PRIOR TO THE BID SUBMISSION DATE AND SHALL INCLUDE SPECIFICATIONS AND ALL CONTRACTUAL TERMS AND CONDITIONS APPLICABLE TO THE PROCUREMENT. AT THE MINIMUM, THE BID PACKET MUST INCLUDE:

- (A.) WHEN AND WHERE TO SUBMIT THE BID;**
- (B.) THE TOWN EMPLOYEE TO CONTACT WITH QUESTIONS;**
- (C.) SCOPE OF WORK DESCRIBING THE SUPPLY OR SERVICE DESIRED AND PROPOSED TIMELINE;**

- (D.) **SUBMITTAL REQUIREMENTS SUCH AS COVER LETTER, REFERENCES, COST ESTIMATE, OR ANY BOND OR SPECIAL CONDITION TO WHICH THE ITEM OR ITEMS MAY BE SUBJECT;**
 - (E.) **LANGUAGE INDICATING THE TOWN RESERVES THE RIGHT TO ACCEPT OR REJECT ANY AND/OR ALL BIDS AND TO WAIVE ANY MINOR TECHNICAL IRREGULARITIES IN THE BIDDING PROCESS THAT DO NOT ALTER THE PRICE, QUALITY OR QUANTITY OF THE ITEMS, SERVICES OR PROJECT; AND**
 - (F.) **LANGUAGE INDICATING THAT THE TOWN DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, SEXUAL ORIENTATION, RELIGION, AGE, DISABILITY OR ANY OTHER BASIS PROHIBITED BY STATE OR FEDERAL LAW IN EMPLOYMENT OR THE PROVISION OF SERVICES.**
- (2.) ***PUBLIC NOTICE.* PUBLIC NOTICE OF THE REQUEST FOR SEALED BIDS SHALL BE GIVEN AT LEAST TEN (10) BUSINESS DAYS PRIOR TO THE DATE SET FORTH THEREIN FOR THE SUBMISSION OF BIDS, UNLESS THE TOWN MANAGER DETERMINES, IN WRITING, THAT CIRCUMSTANCES REQUIRE A SHORTER NOTICE PERIOD. PUBLIC NOTICE SHALL BE GIVEN ON THE TOWN'S WEBSITE, FACEBOOK PAGE, THE CLASSIFIEDS SECTION OF THE MARYLAND MUNICIPAL LEAGUE WEBSITE. THE NOTICE SHALL INCLUDE A BRIEF DESCRIPTION OF THE ITEM OR ITEMS TO BE BID, THE LOCATION WHERE SPECIFICATIONS MAY BE OBTAINED FOR THE ITEM OR ITEMS TO BE BID, THE LOCATION AT WHICH AND THE TIME AND DATE ON WHICH SEALED BIDS ARE TO BE SUBMITTED, AND ANY BOND OR SPECIAL CONDITIONS TO WHICH THE ITEM OR ITEMS MAY BE SUBJECT. PUBLIC NOTICE SHALL ALSO BE GIVEN ON THE TOWN WEBSITE BY POSTING OF THE BID PACKET AND SUBMISSION DATE AND TIME. IN ADDITION TO THE REQUIREMENTS OF THIS SECTION THE TOWN SHALL ALSO GIVE PUBLIC NOTICE ON THE EMARYLAND MARKETPLACE SYSTEM MANAGED BY THE MARYLAND DEPARTMENT OF GENERAL SERVICES.**
- (3.) ***RECEIPT OF BIDS.* UPON THE EXPIRATION OF THE TIME FOR SUBMITTING BIDS, THE TOWN MANAGER OR HIS/HER DESIGNEE SHALL RETAIN THE SEALED BIDS IN A LOCKED SPACE UNTIL A BID OPENING MEETING IS CONDUCTED PURSUANT TO SECTION 5 BELOW. RECEIVED BID ENVELOPES SHALL REMAIN SEALED, AND IMMEDIATELY TIME AND DATE STAMPED AND INITIALED BY THE TOWN EMPLOYEE RECEIVING THE BID ENVELOPE. A WRITTEN RECEIPT SHALL ALSO BE RECORDED WITH THE NAME OF THE PERSON DELIVERING THE BID, DATE AND TIME OF DELIVERY, INITIALS OF TOWN STAFF RECEIVING THE BID, AND NAME OF THE BID PROJECT OR SERVICE. A RECEIPT COPY SHALL BE GIVEN TO THE BID COURIER.**
- (4.) ***LATE BIDS.* LATE BIDS SHALL BE ACCEPTED ONLY WHEN IT IS ESTABLISHED TO THE SATISFACTION OF THE TOWN MANAGER THAT THE LATENESS WAS DUE TO UNEXPECTED WEATHER OR TRAFFIC CONDITIONS, OR OTHER CONDITIONS BEYOND THE CONTROL OF**

THE BIDDER. THE TOWN MAY REQUIRE DOCUMENTATION AND/OR OTHER PROOF OF THE CONDITION RESULTING IN THE LATE PROPOSAL. NO LATE PROPOSAL SHALL BE ACCEPTED WHEN TO DO SO WOULD CONFER AN ADVANTAGE ON THE LATE BIDDER OR OTHERWISE BE AVERSE TO FAIR COMPETITION. ALL DECISIONS TO ACCEPT LATE PROPOSALS SHALL BE SUPPORTED BY A WRITTEN DETERMINATION MADE BY THE TOWN MANAGER AND RETAINED WITH THE BID FILE.

(5.)*BID OPENING.* THERE SHALL BE NO PUBLIC OPENING OF BIDS AND NO PROPOSAL SHALL BE OTHERWISE HANDLED SO AS TO PERMIT DISCLOSURE OF THE IDENTITY OF ANY BIDDER OR THE CONTENTS OF ANY PROPOSAL TO COMPETING BIDDERS DURING THE EVALUATION PROCESS. WITHIN NINETY (90) DAYS OF THE DATE SET FOR THE SUBMISSION OF THE BIDS, THE BIDS SHALL BE OPENED IN THE PRESENCE OF THE TOWN MANAGER AND AT LEAST ONE (1) OTHER TOWN EMPLOYEE. A BID TABULATION RECORDING THE AMOUNT OF EACH BID, NAME OF EACH BIDDER, EMPLOYEES IN ATTENDANCE, OPENING DATE AND TIME SHALL BE RECORDED AND KEPT WITH THE BID FILE. THE PROPOSALS AND BID TABULATION, EXCEPT FOR INFORMATION IDENTIFIED BY THE BIDDER AS PROPRIETARY, SHALL BE OPEN FOR PUBLIC INSPECTION AFTER CONTRACT AWARD.

(6.)*CONFIDENTIALITY.* IN ALL EVENTS, ALL BIDS SUBMITTED SHALL BE AND REMAIN CONFIDENTIAL UNTIL THE TOWN MANAGER DETERMINES THAT THEY SHOULD BE SUBMITTED TO THE MAYOR AND BOARD OF COMMISSIONERS FOR REVIEW AND CONSIDERATION. UNTIL SUCH TIME, NEITHER THE TOWN MANAGER, NOR THE HEAD OF ANY DEPARTMENT PARTICIPATING IN THE PRELIMINARY REVIEW OF BIDS, NOR ANY OTHER EMPLOYEE, AGENT, OFFICER OR OFFICIAL OF THE TOWN MAY DIVULGE THE CONTENT OF ANY BID OR ANY ASPECT OF THE BID TO ANY PERSON, BOARD, GROUP, COMMITTEE, COMMISSION, OR ENTITY.

(7.)*REVIEW BY MAYOR AND BOARD OF COMMISSIONERS.* WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE DATE SET FOR THE SUBMISSION OF THE BIDS, THE TOWN MANAGER SHALL, IN HIS/HER BEST JUDGEMENT, EITHER SUBMIT THE BIDS (AND, IF APPLICABLE, ALL BEST AND FINAL OFFERS) TO THE MAYOR AND BOARD OF COMMISSIONERS FOR REVIEW AND CONSIDERATION OR SHALL RECOMMEND THAT THE REQUEST FOR BIDS BE READVERTISED. IF THE MAYOR AND BOARD OF COMMISSIONERS DETERMINE THAT THE REQUEST FOR BIDS SHOULD BE READVERTISED, THE SAME PROCEDURES SET FORTH HEREIN FOR THE INITIAL REQUEST SHALL BE FOLLOWED, AND THE ORIGINAL BIDS SHALL BE RESEALED AND RETAINED UNTIL SUCH TIME AS A FINAL CONTRACT IS ENTERED INTO OR THE PROJECT IS ABANDONED.

(A.) UPON A DETERMINATION THAT THE BIDS SHALL BE SUBMITTED TO THE MAYOR AND BOARD OF COMMISSIONERS, THE FORMAL CONSIDERATION OF THE BIDS SHALL BE PLACED

ON THE AGENDA OF A PUBLIC MEETING OF THE MAYOR AND BOARD OF COMMISSIONERS, AND THE TOWN MANAGER SHALL NOTIFY EACH PERSON OR ENTITY SUBMITTING A BID OF THE DATE, TIME AND LOCATION FOR THAT MEETING.

- (B.) AFTER PUBLIC REVIEW AND CONSIDERATION OF THE BIDS SUBMITTED, THE MAYOR AND BOARD OF COMMISSIONERS MAY ACCEPT OR MAY REJECT ANY AND ALL BIDS, OR THEY MAY WAIVE TECHNICAL DEFECTS OR ACCEPT ANY BID WHICH, IN THEIR JUDGMENT, IS IN THE BEST INTEREST OF THE TOWN. IN ACCEPTING OR REJECTING A BID AND IN AWARDING WRITTEN CONTRACTS BASED UPON THE BIDS, THE TOWN MAY CONSIDER VARIOUS FACTORS INCLUDING, BUT NOT LIMITED TO, THE BIDDER WHO OFFERS THE LOWEST RESPONSIBLE BID, THE QUALITY OF THE GOODS AND WORK PROPOSED, THE TIME OF DELIVERY OR COMPLETION, AND THE RESPONSIBILITY OF BIDDERS BEING CONSIDERED. THE TOWN SHALL HAVE THE ABSOLUTE RIGHT TO REJECT ANY OR ALL BIDS AND SHALL NOT BE OBLIGATED TO ACCEPT ANY BID, INCLUDING THE LOWEST BID. IT MAY ALSO REJECT ALL BIDS AND REQUIRE THE READVERTISEMENT OF BIDS.**
- (8.) *MINOR TECHNICAL IRREGULARITIES.* THE TOWN MANAGER MAY WAIVE MINOR TECHNICAL IRREGULARITIES IN BIDS OR PROPOSALS THAT DO NOT ALTER THE PRICE, QUALITY OR QUANTITY OF THE ITEMS, SERVICES OR PROJECT. MINOR TECHNICAL IRREGULARITIES ARE MATTERS OF FORM, RATHER THAN SUBSTANCE, WHICH ARE EVIDENT FROM THE BID OR PROPOSAL DOCUMENT, OR INSIGNIFICANT MISTAKES THAT CAN BE WAIVED OR CORRECTED WITHOUT PREJUDICE TO OTHER BIDDERS; I.E. WHEN THERE IS NO EFFECT ON THE PRICE, QUANTITY, QUALITY, DELIVERY OR MATERIAL CONTRACT CONDITIONS.**
- (9.) *CONSTRUCTION.* THE TOWN MAY, AT ANY TIME AND IN ITS SOLE DISCRETION, EMPLOY ITS OWN FORCES FOR THE CONSTRUCTION OR RECONSTRUCTION OF PUBLIC IMPROVEMENTS WITHOUT ADVERTISING FOR (OR RE-ADVERTISING FOR) OR RECEIVING BIDS.**
- (10.) *WRITTEN NOTICE OF AWARD.* UPON THE ACCEPTANCE AND REJECTION OF A BID OR THE DETERMINATION NOT TO PURSUE A BID PROJECT THE TOWN MANAGER OR HIS/HER DESIGNEE SHALL SEND WRITTEN NOTIFICATION TO ALL BIDDERS NOTIFYING THE BIDDERS OF THE TOWN'S DECISION TO EITHER ACCEPT OR REJECT THEIR PROPOSAL. IF AVAILABLE, A COPY OF THE BID TABULATION SHALL ALSO BE SENT WITH THE WRITTEN NOTIFICATION. A COPY OF THE ACCEPTANCE AND REJECTION WRITTEN NOTIFICATION SHALL BE RETAINED AND KEPT IN THE BID FILE AND SHALL BE OPEN TO PUBLIC INSPECTION FOLLOWING THE AWARD.**

C. WHERE THE SECURING OF SEALED BIDS IS IMPRACTICAL, UNREASONABLE OR NOT ADVANTAGEOUS TO THE TOWN, THE TOWN MANAGER MAY INSTITUTE AN ALTERNATE PROCUREMENT METHOD BY UTILIZING THE OPEN MARKET. A WRITTEN STATEMENT GIVING THE BASIS FOR THE DETERMINATION THAT THE SECURING OF SEALED BIDS IS IMPRACTICAL, UNREASONABLE OR NOT ADVANTAGEOUS TO THE TOWN SHALL BE SUBMITTED BY THE TOWN MANAGER TO THE MAYOR AND BOARD OF COMMISSIONERS. THE WRITTEN STATEMENT SHALL INCLUDE AT LEAST THREE BONA FIDE QUOTATIONS OR OFFERS AND A RECOMMENDATION REGARDING THE ISSUE. THE MAYOR AND BOARD OF COMMISSIONERS MAY ACCEPT OR REJECT THE RECOMMENDATION AND THE QUOTATIONS OR OFFERS WHICH IN THEIR JUDGMENT ARE IN THE BEST INTEREST OF THE TOWN.

3.12.060 Change orders.

A. The utilization of change orders is discouraged. Toward that end, specifications in a request for proposal (RFP) shall be as complete and accurate as possible, and ~~[prohibit]~~ **PRE-BID** conferences are encouraged for complex or substantial projects. Proposals from bidders shall be complete and thorough and shall address all specifications set forth in the RFP. Notwithstanding the foregoing, change orders are occasionally required or deemed desirable where unforeseen circumstances arise or when the ~~[the]~~ Town seeks to add to the scope or parameters of the project.

B. In circumstances in which one or more change orders are required or are deemed advisable, the following procedures shall be followed:

- (1) The supervisor, department head, engineer, project manager, or consultant having supervision over the project for which a change order is requested shall complete a change order request form, and shall provide documentation adequate and sufficient to support such request. Such documentation shall include the nature and extent of the requested change, the reason for the requested change, the cost of such change (including whether a credit or add-on change), the additional time, if any, required to implement the change, the expected consequences if the change is not approved, and any other considerations deemed relevant to the requested change. The change order request form and all documentation shall be submitted for review to the town manager or, in the absence of the town manager, to the mayor.
- (2) No change order shall be approved pursuant to this section unless such approval is deemed:
 - (A) Necessary, desirable or appropriate for the completion or furtherance of the project; and
 - (B) The funds which have been appropriated in the budget for the project are adequate to cover the expenditures required under the requested change order or orders.
- (3) The town manager or, in the absence of the town manager, the mayor may approve any change order or series of change orders for an individual project if the cost of and expenditures required for all such change orders, either individually or in the conglomerate, is less than ~~[twenty]~~ **FIFTEEN** thousand dollars ~~[(~~\$20,000.00~~)]~~ **(\$15,000.00)**. Approval or denial of any requested change

order shall be evidenced by the signature of the town manager or, in the absence of the town manager, the mayor on the change order request form in a manner reflecting such approval or denial and the date thereof.

- (4) Only the board of commissioners may approve a change order request for an individual project requiring expenditures of [~~twenty~~] **FIFTEEN** thousand dollars [~~(\$20,000.00)~~] **(\$15,000.00)** or more. Only the board of commissioners may approve a change order for which the required expenditures, when added to prior change orders, equals [~~twenty~~] **FIFTEEN** thousand dollars [~~(\$20,000.00)~~] **(\$15,000.00)** or more. For all such change order requests, the town manager shall submit to the board of commissioners the change order request form and all supporting documentation for review and consideration. Approval or denial of any requested change order shall be evidenced by the signature of the president of the board or, in the absence of the president, the vice president on the change order request form in a manner reflecting such approval or denial and the date thereof.
- (5) No open-ended change order may be approved.
- (6) No change order which is not approved in accordance with the provisions of this section shall be valid, and no liability for damages or costs under such change order shall be imposed upon the [~~the~~]Town, its officers, officials, employees or agents; provided, however, that the requirements of this section may be varied by a written contract approved by the majority vote of the board of commissioners and signed by the mayor.

3.12.070 Professional services.

Contracting for professional services, including legal, accounting, planning, engineering, architectural, and other general consulting services, may be made without engaging in the procedures for competitive bidding. Initial contracts for such professional services may be awarded and approved by the board of commissioners through either sealed competitive bids or competitive negotiation or through an evaluation of the proposals and qualifications of those under consideration for providing such services. Once a person, firm or entity has been retained to provide such professional services on a regular basis, the mayor, town manager and town staff may consult and engage with such provider to provide advice and other professional services until such time as the board of commissioners determines to terminate the services of the professional service provider.

13.12.080 Signing of contracts.

A. Before any contract is approved by the board of commissioners and executed by the mayor, the contract shall be reviewed, approved and signed by the town manager for technical sufficiency, by the town clerk for financial sufficiency, and, if appropriate, by the town attorney for legal sufficiency.

- B. All written contracts shall be signed by the mayor and attested by the town manager or town clerk and may be protected by such bonds, penalties and conditions as the mayor and board of commissioners may require.
- C. Except as may otherwise be provided herein, no elected or appointed official, department head, or employee is authorized to enter into any contract for non-budgeted items for the [t]Town without the approval of the mayor and board of commissioners, and the [t]Town shall not be liable on any such contract.

13.12.090 EMERGENCY PROCUREMENT.

- A. WHERE THERE EXISTS A THREAT TO PUBLIC HEALTH, SAFETY OR WELFARE, THE MAYOR MAY AUTHORIZE EMERGENCY EXPENDITURES FOR ANY SUPPLIES, MATERIALS, EQUIPMENT, CONSTRUCTION IMPROVEMENTS OR CONTRACTUAL SERVICES AS MAY BE REQUIRED TO ADDRESS THE THREAT WITHOUT THE NECESSITY OF A WRITTEN CONTRACT OR COMPETITIVE BIDDING, PROVIDED THAT EMERGENCY PROCUREMENTS SHALL BE MADE WITH COMPETITION AS IS PRACTICABLE UNDER THE CIRCUMSTANCES.**
- B. AN EMERGENCY CONDITION IS A SITUATION THAT CREATES A THREAT TO PUBLIC HEALTH, WELFARE OR SAFETY SUCH AS MAY ARISE BY REASON OF FLOODS, FIRES, PANDEMICS, RIOTS, ACTS OF TERRORISM, EQUIPMENT FAILURES, OR SIMILAR EVENTS AND INCLUDES THE PLANNING AND PREPARING FOR AN EMERGENCY RESPONSE. THE EXISTENCE OF THE EMERGENCY CONDITION CREATES AN IMMEDIATE AND SERIOUS NEED FOR SUPPLIES, MATERIALS, EQUIPMENT, CONSTRUCTION OF PUBLIC IMPROVEMENTS OR CONTRACTUAL SERVICES THAT CANNOT BE MET THROUGH NORMAL PROCUREMENT METHODS AND THE LACK OF WHICH WOULD SERIOUSLY THREATEN:**
- (1). THE FUNCTIONING OF GOVERNMENT;**
(2). THE PRESERVATION OR PROTECTION OF PROPERTY; OR
(3). THE HEALTH AND SAFETY OF ANY PERSON.
- C. THE MAYOR SHALL USE DUE DILIGENCE IN DETERMINING THE BASIS FOR THE EMERGENCY PROCUREMENT AND FOR THE SELECTION OF THE PARTICULAR CONTRACTOR. THE DETERMINATION SHALL BE IN WRITING AND INCLUDED IN THE BID FILE.**
- D. THE MAYOR OR THE TOWN MANAGER SHALL NOTIFY THE BOARD OF COMMISSIONERS AS SOON AS PRACTICABLE, IN WRITING, OF ANY EMERGENCY EXPENDITURE AND PROVIDE THE WRITTEN DETERMINATION OF EMERGENCY PROVIDED FOR IN SECTION 13.12.090.C. ABOVE. IN THE ABSENCE OF THE MAYOR, THE PRESIDENT OF THE BOARD OF COMMISSIONERS MAY EXERCISE THE AUTHORITY CONTAINED IN THIS SECTION.**

- E. WITHIN THREE (3) BUSINESS DAYS OF AWARDING AN EMERGENCY PROCUREMENT CONTRACT, THE TOWN MANAGER OR HIS/HER DESIGNEE SHALL POST ON THE TOWN WEBSITE THE NOTICE, IDENTIFYING AT A MINIMUM:**
- (1). THE CONTRACTOR'S NAME AND ADDRESS;**
 - (2). THE AMOUNT AND TERM OF THE CONTRACT;**
 - (3). A LISTING OF THE SUPPLIES, MATERIALS, EQUIPMENT, CONSTRUCTION OF PUBLIC IMPROVEMENTS, OR CONTRACTUAL SERVICES PROCURED UNDER THE CONTRACT; AND**
 - (4). THE JUSTIFICATION FOR THE PROCUREMENT METHOD.**
- F. THE RECORD OF EACH SUCH PROCUREMENT SHALL BE PUBLIC RECORD AND SHALL BE MAINTAINED AS REQUIRED BY THE TOWN'S RECORD RETENTION SCHEDULES.**

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners passes the Ordinance over the veto of the Mayor.

PASSED this ___ day of _____, 2021

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Madeline Shaw, Town Clerk

Timothy J. O'Donnell, President

MAYOR

_____ APPROVED _____ VETOED

this _____ day of _____, 2021.

Donald N. Briggs, Mayor

I hereby certify that the foregoing Ordinance has been posted as required by Chapter 2.04 of the Emmitsburg Municipal Code.

Madeline Shaw, Town Clerk
Date:

AGENDA ITEM# 2. Award ADA sidewalk curb ramp project contract for consideration: Presentation at meeting by town staff.

FIRST REQUEST FOR PROPOSALS:

TIMELINE – TOWN-WIDE ADA SIDEWALK CURB RAMP’S PROJECT:

- RFP published by Town.....April 21, 2021
- Pre-bid conference via Zoom.....May 5, 2021 @ 10:00 AM – CDBG requirement
- DEADLINE, bids due by.....May 19, 2021 @ 10:00 AM
- Public bid opening via Zoom..... May 19, 2021 – CDBG requirement

RFP ADVERTISEMENT:

- Public notice under RFP tab on Town’s website – 04/21/2021 to 05/19/2021
- Public notice on Town’s Facebook and Channel 99 – 04/21/2021
- Frederick News Post publication – 04/21/2021 & May 4, 2021
- Notice on MML Classifieds – 04/21/2021 to 05/19/2021
- RFP mailed to 18 Minority Business Enterprise (MBE) / Disadvantaged Business Enterprise (DBE) / Small Business Enterprise (SBE) / Women Business Enterprises (WBE) concrete firms – 04/21/2021 (CDBG Requirement).
- RFP emailed to 1 known concrete firm.

PROPOSAL RECEIVED:

Company:	Bid Amount:
ECM Corporation	\$555,651.00

***Due to Community Development Block Grant requirements, the Town was required to rebid the project, since we only received one bid. ***

Second Request for Proposals:

TIMELINE – TOWN-WIDE ADA SIDEWALK CURB RAMP’S PROJECT:

- RFP published by Town..... June 1, 2021
- Pre-bid conference via Zoom.....June 14, 2021 @ 10:00 AM – CDBG requirement
- DEADLINE, bids due by.....June 30, 2021 @ 10:00 AM
- Public bid opening via Zoom.....June 30, 2021 – CDBG requirement

RFP ADVERTISEMENT:

- Public notice under RFP tab on Town’s website – 06/0/2021 to 06/30/2021
- Public notice on Town’s Facebook and Channel 99 – 06/01/2021
- Frederick News Post publication – 06/02/2021 & 06/09/2021
- Notice on MML Classifieds – 06/01/2021 to 06/30/2021
- RFP mailed to 18 Minority Business Enterprise (MBE) / Disadvantaged Business Enterprise (DBE) / Small Business Enterprise (SBE) / Women Business Enterprises (WBE) concrete firms – 06/01/2021 (CDBG Requirement).
- RFP emailed / mailed to 14 known concrete firms – 06/01/2021

PROPOSAL RECEIVED (in alphabetical order):

Company:	Bid Amount:
ECM Corporation	\$630,576.00
MIM Construction, Inc.	\$623,028.50

RECOMMENDED MOTION:

Motion to approve MIM Construction, Inc.’s Town-Wide ADA Sidewalk Curb Ramp’s Project bid in the amount of \$623,028.50, and a total project cost not to exceed \$705,893.00. The Mayor is authorized to enter into a Contract with MIM Construction, Inc. in the amount of the total project bid of \$623,028.50 which includes \$12,200 of contingency funding. Change orders approved by the Town Engineer and Mayor for unexpected costs are authorized provided they shall not exceed the total project cost of \$705,893.00. (Minor contract changes not altering the total project bid that are consistent with the invitation to bid and proposal are permitted.)

*A total project cost is shown higher than the bid amount in order to cover potential change orders for unexpected costs.

*The project is fully funded by a \$685,893.00 Community Development Block Grant, \$10,000.00 Town cash match, & \$10,000.00 Town in-kind match for a total of \$705,893.00.

TOWN OF EMMITSBURG
UNIT CONTRACTOR AGREEMENT
Contract 21-SA-21

THIS AGREEMENT made this __ day of _____, 2021 by and between MIM CONSTRUCTION, INC. (the “Contractor”) and the TOWN OF EMMITSBURG, MARYLAND, a municipal corporation (the “Town”).

WITNESSETH: In consideration of the payments and agreements mentioned, to be made and performed by the Owner, the Contractor hereby agrees with the Owner to commence and complete the construction described as follows: **SIDEWALK ACCESSIBILITY RAMPS FY21, CONTRACT 21-SA-21**, hereinafter called the PROJECT, for the Total Contract Price of \$623,028.50 including all extra work in connection therewith, under the terms as stated in the Contract Documents. The Contractor further agrees to complete all work at its own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Contract Documents as prepared by the Town of Emmitsburg, all of which are made a part hereof and collectively constitute the Contract Agreement.

ARTICLE 1. Contract Documents

This Agreement includes the following component parts, all of which are as fully a part of this contract as if herein set out verbatim and attached hereto:

1. Invitation for Bid – Contract 21 SA-21 issued June 1, 2021 and Addendum No. 1 dated June 14, 2021 (items separately enumerated below are not included in this exhibit)
2. ADA executed approved Sidewalk Ramp Improvement Plans -April 2021
3. Contract Specifications
4. General Terms and Conditions
5. Supplemental Terms and Conditions.
6. Contractor Unit Prices
7. Performance Bond
8. Payment Bond
9. Insurance Certificate

This Agreement and the above enumerated documents constitute the “Contract Documents”. All modifications to this Agreement shall be in writing and signed both by the Town and the Contractor and shall be incorporated in and become part of the Contract.

In the event of a conflict between the Improvement Plans and Contract Specifications, the Contract Specifications shall control.

In the event of a conflict between the Standard General Terms and Conditions and the Supplementary Conditions, the Supplementary Conditions shall apply.

In the event the Standard General Terms and Conditions or the Supplemental Terms and Conditions conflict with this Agreement, the terms of this Agreement shall control.

ARTICLE 2. Scope of Work

The Contractor shall perform all of the work described in the Approved Sidewalk Ramp Improvement Plans and Specifications attached hereto and incorporated herein. The Contractor shall attend all scheduled meetings and complete any reports required by the Contract Documents.

The Project sites will be ready and accessible for Contractor's work. Contractor shall have a foreman or supervisor on site at all times during which work is performed.

ARTICLE 3. Time of Completion

The work to be performed under this contract shall start following the delivery to Contractor of the Notice to Proceed and shall be completed within 270 calendar days of the date of the Notice to Proceed. **Failure to timely complete the work as set forth herein may result in the assessment of delay damages in the amount of \$ 300.00 per calendar day which shall be deducted from the contract price.** Time is of the essence.

ARTICLE 4. The Contract Price

The Town shall pay to the Contractor for the actual quantities supplied and labor to be performed under the contract. The base bid price is **Six Hundred Ten Thousand Eight Hundred Twenty-Eight Dollars and fifty cents, (\$610,828.50)** plus a contingent amount of **Twelve Thousand Two Hundred Dollars and no cents (\$12,200)** for extra work if authorized by the Town's Engineer in writing. The Total Contract Price for all work and extra work is **Six Hundred Twenty-Three Thousand Twenty-Eight Dollars and fifty cents (\$623,028.50)**.

The foregoing price is not to be construed to be a lump sum contract price. The quantities of the unit price items as stated in the Contractor's Unit Prices appended as Exhibit 6. These are approximate only, and it is understood and agreed that payment will be made only on the actual quantities of work completed in place as measured and verified by the Town.

The foregoing bid price is binding upon the Contractor, unless modification is made in writing and signed by the Town. Any request for change orders shall be responded to within five business days. Either party may request a change order. The Contractor is expected to fully inform itself as to the conditions, requirements and specifications before submitting bids. Failure to do so will be the Contractor's own risk and the Contractor may not secure relief on the plea of error in either omission or commission. In case of error in extension of prices in the bid, the unit price shall govern.

ARTICLE 5. Relationship of Parties

This contract creates an independent contractor relationship. The Contractor is not an agent or an employee of the Town, for any purpose. The Contractor shall provide its services under this Agreement and the Contract Documents at its own direction and control and in the manner deemed most advisable in its professional judgment. The Contractor will use its own tools and equipment normally used in the trade in performing the work hereunder.

ARTICLE 6. Quality of Work

The Contractor warrants that all materials furnished by Contractor incorporated into the Project shall be new and that Contractor warrants that it has the expertise and know-how to perform the work described herein including knowledge of ADA requirements as they pertain to construction. The Contractor warrants that all work shall be completed in a workman-like manner, according to industry standards, and in compliance with the Contract Documents and all other applicable laws.

The Contractor warrants all work shall be reasonably free of any defect and within the customary tolerance of the industry. If defects are found, the Contractor shall repair or replace any of the alleged defective work at its costs. This warranty will remain in effect for a period of one year from the date of completion.

Contractor, upon notice from the Town, covenants and agrees to promptly remove, replace and correct any work that fails to conform to the requirements of this Contract and shall remedy all defects due to defective materials or faulty or improper workmanship which appear within a period of one (1) year from completion and acceptance of the Project. Contractor transfers and assigns to the Town by the terms of this Agreement all material manufacturers' warranties.

ARTICLE 7. Licensing

Contractor represents and warrants that it is a corporation or entity in good standing and licensed to do business in the State of Maryland and that the person signing this Agreement has the authority to do so. To the extent required by law, all work shall be performed by individuals duly licensed and authorized by law to perform said work and the Contractor is responsible for obtaining any such license. The Town will obtain any licenses or permits required by state and local law that relate specifically to the project itself.

The Contractor represents and warrants that all individuals performing any work under this Agreement are United States citizens or have the appropriate work permits required by law.

ARTICLE 8. Employees/Wages

All Contractor's Employees shall be United States citizens or possess appropriate work permits/visas as required by Law.

Contractor's Employees and any Subcontractor employees shall be paid weekly.

All wages paid by Contractor or Subcontractor to their employees shall be in accordance with the Davis-Bacon Wage Act and HUD 4010 and the minimum pre-determined wage rates mandated therein and the Contract Documents. The requirements are set forth in the Special Conditions in the Invitation to Bid commencing at page 23 which is attached hereto as Exhibit 1 and incorporated herein.

The work to be performed under the Contract Documents is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this Agreement agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

The Contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

ARTICLE 9. Subcontractors

The Contractor may hire qualified subcontractors identified in the Bid Documents, or upon receiving written approval from the Town. IN THE ABSENCE OF WRITTEN APPROVAL FROM THE TOWN, NO SUBCONTRACTORS MAY BE USED. The Contractor shall fully pay said subcontractors and in all instances remain responsible for the proper completion of this contract and provide releases of lien from such subcontractors.

All subcontractors must comply with each and every term of the Contract documents including wage requirements as provided in HUD 4010 for each of the subcontractor's employees and the Contract Documents shall be incorporated in each contract between Contractor and any subcontractor.

The Contractor shall ensure that its subcontractors and their employees are United States citizens or have appropriate work permits/visas required by law, licensed to do business in Maryland and duly licensed by law to perform the work for which they are hired, and have insurance in the amounts required herein.

No subcontractor may perform work unless the subcontractor was identified in the bid documents or is consented to by the Town and such Contractor is duly licensed and in good standing with the State of Maryland.

ARTICLE 10. Insurance

The Contractor represents and warrants it is adequately insured for property damage and for injury to its employees and others incurring loss or injury as a result of the acts of the Contractor and its employees. The Contractor agrees, before commencing any work or services under this Agreement, to provide the Town with a certificate of insurance showing comprehensive general liability and automobile insurance coverage and additional insured endorsements naming the Town and any other additional parties required as additional insured thereunder. Additional insured coverage shall apply as primary insurance with respect to any other insurance afforded to Town. The coverage available to the Town, as additional insured, shall be no less than: \$2,000,000 for each occurrence; \$3,000,000 aggregate; \$3,000,000 completed operations aggregate; \$2,000,000 Personal and Advertising Injury limits; \$1,000,000 automobile; and \$1,000,000 pollution, aggregate \$2,000,000. Such insurance shall cover liability arising from premises, operations, independent contractors, product-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort of liability of another assumed in a business contract). There shall be no endorsement or modification of the

commercial general liability form arising from pollution, explosion, collapse, underground property damage or work performed by subcontractors. All coverage shall be placed with an insurance company duly admitted in the State of Maryland and shall be reasonably acceptable to the Town. All Contractor insurance carriers must maintain an AM Best rating of "A-" or better. Coverage shall be afforded to the additional insured whether or not a claim is in litigation.

The insurance coverage shall be sufficient type, scope, and duration to ensure coverage for the Town for liability related to any manifestation date within the applicable statutes of limitations and/or repose which pertain to any work performed on behalf of the Town in relation to the Agreement.

Each certificate of insurance shall provide that the insurer must give the additional insureds at least 30 days prior written notice of cancellation and termination of the contractor's coverage thereunder. Not less than two weeks prior to the expiration, cancellation, or termination of any such policy, the Contractor shall supply the Town with a new and replacement certificate of insurance and additional insured endorsements as proof of renewal of said original policy. Said new and replacement endorsements shall be similarly endorsed in favor of the Town as set forth above.

Additionally, and prior to commencement of work, the Contractor shall provide the Town with a certificate of insurance showing liability insurance coverage for the Contractor and any employees, agents, or subcontractors of the Contractor for Workers' Compensation and Employer's Liability Insurance. In the event these policies are terminated, certificates of insurance showing replacement coverage shall be provided to the Town. Workers' Compensation coverage shall be no less than as required by statute. Employer's liability coverage shall be no less than \$500,000 trauma each accident, \$500,000 disease each employee, and \$500,000 bodily injury/disease each policy.

ARTICLE 11. Payment

The Town, within thirty (30) days of receipt of an approved partial/final payment estimate, release of lien (including releases from any subcontractors), and payroll data certifying under oath employee hours worked and payment of wages for the time period included in the request for payment, will make payment to the Contractor. Payment shall not be an admission or approval by the Town that the work is satisfactory.

The "TOTAL AMOUNT" shall be defined as the sum of all products of each estimated quantity provided by the Town and the applicable unit rate bid by the Contractor. The "TOTAL AMOUNT" indicated in this Contract does not constitute an obligation by the Town to pay the Contractor this amount in its entirety under the current terms and conditions of this Contract. The Town shall pay the Contractor for only that quantity of work actually executed to the satisfaction of the Town Planner complete in place. The Contractor shall review all field measurements and quantities in cooperation with the Town Planner's duly authorized representative for the project as work is completed and then submit an invoice for payment on a monthly basis along with the Town estimate. The Town shall review the invoice within five (5)

business days of receipt and either approve payment (less applicable retainage) or reject the invoice and contact the Contractor immediately with the explanation of rejection.

The Contractor is responsible for payment of all federal, state or local taxes related to payments made under this contract. Payments by the Town to the Contractor shall not be subject to withholding and other applicable taxes. The Contractor agrees that it is responsible for the payment of estimated taxes, employment taxes, or any other taxes or insurance due by reasons of receipt of payment pursuant to this Agreement.

ARTICLE 12. Payment and Performance Bonds

Prior to commencement of work, the Contractor shall furnish a payment bond, in an amount at least equal to the Total Contract Price as security for the faithful payment to all persons supplying labor and material in the prosecution of the work provided for in this Agreement. This bond shall remain in effect until 180 days after the date when final payment becomes due, except as provided otherwise by Law, Regulation or by the Contract Documents.

The Contractor shall furnish a performance bond, in an amount at least equal to the Total Contract Price as security for the faithful performance of all the Contractor's obligations under the Agreement. This bond shall remain in effect until 60 days after the date when final payment becomes due, unless a longer time period is provided otherwise by Law, Regulations or by the Contract Documents.

All Bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

If a surety is required on the bond, the surety must be named in the list of "companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch U.S. Department of the Treasury If the surety on any bond furnished by the Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of this section, the Contractor shall promptly notify the Town and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of this section.

ARTICLE 13. Record Management

The Contractor will provide and maintain written documentation of all work performed by the Contractor on this project including but not limited to wages paid employees, materials used, dates of performances, work performed, job logs and photographs. The Contractor shall maintain such records for a period of five (5) years from the date of their creation. The Contractor shall furnish a copy to the Town upon completion of the Project and before receipt of final payment.

ARTICLE 14. Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend (at the Contractor's sole expense) and hold harmless the Town, their representatives, designees, officers, employees, agents and assigns (the "Indemnified Parties") from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits losses, judgments, obligations and any liabilities, costs and expenses (including but not limited to investigative and repair costs, attorney's fees and costs, and consultants' fees and costs) ("Claims") which arise or are in any way connected with the work performed, materials furnished, or services provided under this contract by the Contractor, or its employees, agents or subcontractors.

ARTICLE 15. Town Property

Immediately upon termination of this Agreement, for whatever reason, the Contractor shall return to the Town any written or printed matter of every nature, personal property, and equipment or materials of the Town that may have been accumulated by the Contractor during the term thereof.

ARTICLE 16. Repair

Any damage to Town's property by Contractor or its agents shall promptly be repaired and restored to its condition prior to the damage.

ARTICLE 17. Notice of Delay

The Contractor will promptly notify the Town of any conditions which should cause a delay in the work schedule. Failure to provide Notice to the Town will preclude any contract extension. The Town may issue stop work orders. Any period during which work is stopped by the Town shall result in an extension of time for completion equal to the duration of the stoppage.

ARTICLE 18. Termination of Agreement by the Town

This Agreement may be cancelled, and the Contractor's engagement terminated by the Town **without prior notice** for the following reasons:

- a) The Contractor fails to perform its duties under the contract, or otherwise fails to comply with the terms and provisions hereof.
- b) The public conduct of the Contractor is such as to adversely affect public confidence in the Town.
- c) The Contractor files for bankruptcy protection.
- d) The Contractor or its officers or employees are convicted of committing a felony, or committing a misdemeanor involving moral turpitude.
- e) The Contractor fails to maintain a license.

- f) The Contractor or its employees conduct themselves in an unprofessional, unethical or fraudulent manner.

ARTICLE 19. Voluntary Termination for Convenience

Upon three (3) business days' Notice to Contractor, the Town shall have the right at any time, and for any or no reason, including for convenience, to terminate this Contract and require the Contractor to cease work thereon. The Contractor, in such event, shall be entitled to payment only as provided herein. Contractor shall be paid for work completed and materials delivered up to the time of termination. The notice periods shall commence to run on the day following the mailing of the respective notices of termination or on the date following personal delivery, as the case may be. Termination of this agreement pursuant to notice shall not preclude termination subsequent thereto without notice in accordance with Article 18 above, in which case the provisions hereof shall not apply.

ARTICLE 20. Compliance

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color religion, sex, sexual orientation, gender identity, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

ARTICLE 21. Appointment of Additional Independent Contractors

The Town shall be free to contract with other persons to provide work on this Project.

ARTICLE 22. Benefits and Burdens

The terms and provisions of this agreement shall inure to the benefit of and be binding upon the parties hereto. This agreement shall not be assignable by the Contractor.

ARTICLE 23. Waiver of Breach

The waiver by the Town of a breach of any provision of this agreement by the Contractor shall not operate or be construed as a waiver of any subsequent breach by the Contractor. No waiver shall be valid unless in writing and signed by and authorized representative of the Town.

ARTICLE 24. Governing Law

This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by the laws of the State of Maryland and federal law. The paragraph headings used in this Agreement are included solely for convenience and shall not affect or be used in connection with, the interpretation of this Agreement. In the event of any dispute relating to this agreement or the work performed hereunder, the Contractor consents to jurisdiction and venue in Frederick County, Maryland, and agrees to waive any right to trial by jury.

ARTICLE 25. Town's Rights Not Limited

In the event of a dispute regarding the terms of the contract or performance under the contract, the Contractor and the Town will attempt to resolve the dispute first through friendly consultation or mediation with an agreed upon mediator with experience in construction disputes. It is agreed that the only parties to a dispute shall be the Contractor and the Town, unless the Contractor and Town agree to allow additional parties. If the parties cannot agree upon a mediator, the parties may pursue their contract rights in a forum located in Frederick County, Maryland.

The Town may take over the work and prosecute the work to completion by contract or otherwise. They Town may take possession of the Contractor's materials that may be on the Project site and utilize the materials in completing the work. Whether or not the Contractor's right to proceed with the work is terminated, it is liable to the Town for any damage to the Town resulting from Contactor's refusal or failure to complete the work within the required time.

The rights and remedies of the Town provided in this Contract are in addition to any other rights and remedies provided by law.

ARTICLE 26. Legal Fees

In the event of any dispute hereunder, other than one in which the Contractor is obligated to indemnify the Town pursuant to Article 13, both the Contractor and the Town agree that the losing party shall pay the prevailing party's reasonable attorney's fees and expenses incurred in litigation. In the event a party prevails only partially on its claims, only those fees and expenses associated with the successfully prosecuted claim may be recovered and they will be offset by the fees and expenses incurred by the opposing party defending against the unsuccessful claim.

ARTICLE 27. Severability

In the event that any provision of this agreement violates any rule of law or is otherwise unenforceable, only such invalid provision and not this entire agreement shall be considered void, and all of the other provisions hereof shall remain in full force and effect. In construing this agreement, only the least possible modification shall be made in deleting or striking invalid provisions. Invalidity shall be considered on a word-by-word basis, and only those words giving rise to invalidity shall be stricken.

(Signatures on following page.)

IN WITNESS WHEREOF, the parties hereto set their hands and seals unto this Agreement, which is executed as of the day and year first above mentioned.

Reviewed for Technical Sufficiency:

By: _____
Cathy Willets, Town Manager

Reviewed for Legal Sufficiency:

By: _____
Leslie A. Powell, Town Counsel

Reviewed for Financial Sufficiency:

By: _____
Madeline Shaw, Town Clerk

ATTEST:

By: _____
Cathy Willets, Town Manager

TOWN OF EMMITSBURG

By: _____
Donald N. Briggs, Mayor

WITNESS:

CONTRACTOR
MIM CONSTRUCTION, INC.,

By: _____

Signed this _____ day of _____, 20_____.

AGENDA ITEM# 3. Approval of Rutter’s and Emmitsburg East Industrial Park II deeds of easements and authorize the Mayor to sign the agreements on behalf of the Town for consideration: Presentation at meeting by town staff.

Parcel ID No.: 05-158680
NO TITLE EXAMINATION

DEED OF EASEMENT

THIS DEED OF EASEMENT, made this _____ day of _____, 2021, by M&G Realty, Inc., ("**Grantor**") unto the **Board of Commissioners of the Town of Emmitsburg**, a municipal corporation of the State of Maryland ("**Grantee**").

RECITALS

1. **Grantor** is the owner of certain real property known as 10201 Taneytown Parkway, Emmitsburg, Maryland 21727 depicted in Plat Book 105, Page 74 among the Land Records of Frederick County, Maryland, and more fully described as Parcel One and Parcel Two in liber 9995, folio 443 recorded in the Land Records of Frederick County, Maryland (the "Property").
2. **Grantee** intends to construct and maintain a pump station (the "Pump Station") on the Property, as well as other public utility facilities, including water lines, sewer lines, and stormwater management facilities (hereafter collectively referred to as the "Utility Facilities"), over and across the Property.
3. **Grantor** desires to grant to **Grantee** an easement on, over and across Property for the purpose of constructing and maintaining the Pump Station and Facilities.

WITNESSETH

That for and in consideration of the sum of One Dollar (\$1.00), the receipt and sufficiency of which is hereby acknowledged, and the mutual covenants, conditions herein recited, the said **Grantor** does hereby grant and convey unto the Town of Emmitsburg, Maryland, **Grantee**, its successors and assigns, a permanent perpetual easement in, on, over, under and across the easement areas located in Frederick County, Maryland and described in detail in Exhibit A-1, A-2 and A-3 [to be provided] which are attached hereto and incorporated herein by reference for the purpose of constructing and maintaining the Pump Station and Utility Facilities and other appurtenant uses in the area as further depicted in Exhibits A-4 and A-5 attached hereto.

The herein described easements being in, through, over and across a portion of the real estate described and conveyed unto M&G Realty, Inc., from SPT Land, LLC by Deed dated May 25, 2021, and recorded in Liber 15020, Folio 116 of the land records for Frederick County, Maryland.

And the **Grantor** does hereby covenant that it will warrant specially the property herein conveyed and that it will execute such further assurances thereof as may be requisite.

The **Grantor** and **Grantee** for themselves, their representatives, successors and assigns, hereby further covenant and agree as follows:

A. The Easement Area shall be and remain the property of the **Grantor**. Provided, however, **Grantee** and its successors and assigns shall be responsible for construction, maintenance and repair of the Pump Station and Utility Facilities.

B. The **Grantee**, and its agents, after reasonable prior notice to **Grantor**, shall have the right of ingress and egress to and from the aforesaid easement areas, in, through, over and across the land of the **Grantor**; provided, however, that the **Grantee** shall use existing roadways and parking areas where possible, shall avoid interfering to the best of its ability with access to the Property and Grantor's operations on the Property, and shall minimize damage to lawns, grassy areas, parking and asphalt areas and structures.

C. The **Grantee**, after prior consultation with **Grantor**, shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other obstructions or facilities in the easement area(s), reasonably deemed by the **Grantee** to interfere with the proper and efficient use of the easement(s) for the purposes herein named.

D. The **Grantor**, shall have the right to require the **Grantee**, at **Grantee's** own expense, to restore as nearly as possible the property to its original condition, including the backfilling of trenches, curbs, gutters and sidewalks, resurfacing of roadways and parking areas and reseeded of lawns and pasture areas disturbed during the original construction or future maintenance, replacement or removal of the Pump Station and Utility Facilities.

E. The **Grantor** shall not, within the easement area(s), plant any trees, erect any building or other structure, make a fill which will result in more than six (6) feet of ground cover over an existing or proposed line, excavate to an extent which will result in earth of less than three and one-half (3.5) feet over the Pump Station and Utility Facilities easement areas.

F. The **Grantor** warrants specially the easement(s) conveyed herein and will execute such other assurances thereof as **Grantee** may request.

IN WITNESS WHEREOF, the parties have caused these presents to be executed, as of the day and year first hereinabove set forth.

(Signatures on following page.)

WITNESS/ATTEST:

GRANTOR: M&G Realty, Inc.

_____(SEAL)

By:
Title: President

GRANTEE: Town of Emmitsburg

By: _____(SEAL)

Donald N. Briggs, Mayor

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF YORK, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 2021, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared _____, the _____ of M&G Realty, Inc., a business corporation of the Commonwealth of Pennsylvania, and acknowledged the foregoing Deed of Easement to be the act of said company and made oath that he/she is duly authorized to make this acknowledgement on behalf of M&G Realty, Inc.

WITNESS my hand and Notarial Seal:

My Commission Expires: _____ Notary Public _____

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 2021, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Donald N. Briggs, the Mayor of the Town of Emmitsburg, a municipal corporation of the State of Maryland, and acknowledged the foregoing Deed of Easement to be the act of said body politic and corporate; and at the same time, he made oath in due form of law that he is the Mayor of said body politic and corporate and is duly authorized to make this acknowledgement on its behalf.

WITNESS my hand and Notarial Seal:

My Commission Expires: _____ Notary Public _____

CERTIFICATION

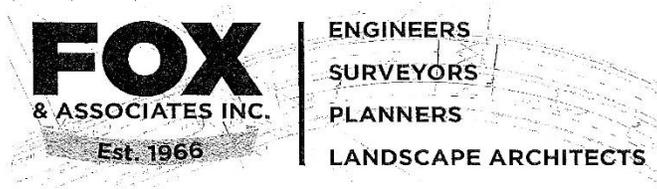
I certify that this instrument has been prepared under the supervision of the undersigned,
an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Leslie A. Powell
Attorney

AFTER RECORDING, PLEASE RETURN TO:

Town of Emmitsburg
300A South Seton Avenue
Emmitsburg, Maryland 21727

EXHIBIT A-1



82 Worman's Mill Ct, Suite G
Frederick, MD 21701
Phone: 301-695-0880
Fax: 301-293-6009
Email: foxfrederick@foxassociatesinc.com

July 08, 2021

Pump Station Easements

Across the Lands of M&G Realty, Inc.
Deed Book 158020 at Page 116
Location: Emmitsburg, Election District No. 5
Frederick County, Maryland

Pump Station Access Easement

Beginning at a point along the easterly property line of the overall parcel, said point being S 24° 21' 59" W 512.98 feet from the northeast property corner as shown on a plat entitled 'Public Utility Easement Plat' recorded in Plat Book 105 at Page 130 among the Land Records of Frederick County, Maryland, thence the following course and distance now defining a Pump Station Access Easement as shown on the above reference plat:

- | | | | | | | | |
|----|---|-----|-----|-----|---|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1) | S | 24° | 21' | 59" | W | 40.22' | to a point; thence departing said eastern property line in a westerly direction by a curve to the right having a radius of 140.00 feet and a length of 12.41 feet with a chord bearing and distance, |
| 2) | N | 68° | 10' | 23" | W | 12.40' | to a point; thence |
| 3) | N | 65° | 38' | 04" | W | 369.41' | to a point; thence |
| 4) | S | 24° | 21' | 56" | W | 19.31' | to a point; said point being 1.76 feet from the northeast corner of the proposed Town Pump Station Easement as shown on the above referenced Public Utility Easement Plat, thence along said easement the following course and distance, |
| 5) | N | 65° | 38' | 04" | W | 40.00' | to a point; said point being 31.07 feet from the northwest corner of the proposed Town Pump Station Easement as shown on the above referenced Public Utility Easement Plat, thence, |
| 6) | N | 24° | 21' | 56" | E | 59.31' | to a point; thence |
| 7) | S | 65° | 38' | 04" | E | 409.41' | to a point; thence by a curve to the left having a radius of 100.00 feet and a length of 12.42 feet with a chord bearing and distance, |

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Pump Station Easements

Page 2 of 2

8) S 69° 11' 36" E 12.41' to place of beginning.

The easement area contained by the foregoing amounts to 17,646 square feet or 0.4051 acres more or less.

Pump Station Easement

Beginning at a point at the northeast corner of the Pump Station Easement as shown on a plat entitled 'Public Utility Easement Plat' recorded in Plat Book 105 at Page 130 among the Land Records of Frederick County, Maryland, said point being S 65° 38' 04" W 1.76 feet from the beginning of the 5th line described above in the Pump Station Access Easement thence the following five (5) courses and distances delineating the limits of said Pump Station Easement:

- 1) S 08° 19' 25" E 13.39' to a point; thence
- 2) S 24° 22' 44" W 60.07' to a point; thence
- 3) N 65° 37' 35" W 80.04' to a point; thence
- 4) N 24° 21' 35" E 71.32' to a point; thence
- 5) S 65° 38' 04" E 72.83' to a place of beginning.

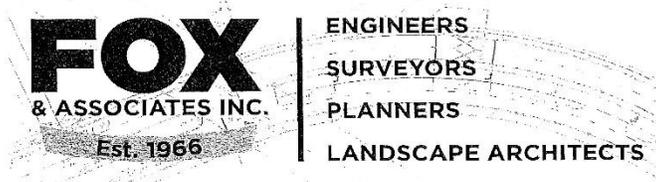
The easement area contained by the foregoing amounts to 5,669 square feet or 0.1301 acres more or less.

The undersigned, being a licensed surveyor, personally prepared or was in responsible charge of the preparation reflected in this metes and bounds description, in compliance with the requirements set forth in "COMAR" Title 09, Subtitle 13, Chapter 06, Regulation 12.

 7/7/21
James A. Zanelli Date
Professional Land Surveyor
Maryland Registration No. 21503
(Expiration/Renewal Date: July 13, 2023)
For Fox & Associates, Inc. Corp. #123



EXHIBIT A-2



82 Worman's Mill Ct, Suite G
 Frederick, MD 21701
 Phone: 301-695-0880
 Fax: 301-293-6009
 Email: foxfrederick@foxassociatesinc.com

July 07, 2021

Utility Easements

Across the Lands of M&G Realty, Inc.
 Deed Book 158020 at Page 116
 Location: Emmitsburg, Election District No. 5
 Frederick County, Maryland

Public Water & Sewer Easement

Beginning at a point on the southern right-of-way line of Taneytown Pike, Maryland Route 140, said point being N 45° 50' 29" W 10.62' from the northeast property corner as shown on a plat entitled 'Public Utility Easement Plat' recorded in Plat Book 105 at Page 130 among the Land Records of Frederick County, Maryland, thence the following courses and distances now defining the Public Water and Sewer Easement as shown on the above reference plat:

- | | | | | | | | |
|----|---|-----|-----|-----|---|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1) | S | 24° | 22' | 16" | W | 650.28' | to a point; thence |
| 2) | S | 65° | 38' | 01" | E | 10.04' | to a point; said point along the easterly property line of the overall parcel, thence |
| 3) | S | 24° | 21' | 59" | W | 146.30' | to a point; thence |
| 4) | N | 64° | 53' | 01" | W | 30.06' | to a point; thence |
| 5) | N | 24° | 22' | 16" | E | 800.29' | to a point; said point being on the southerly right-of-way line of Taneytown Pike, thence with said right-of-way in a easterly direction the following two (2) courses and distances, |
| 6) | S | 57° | 48' | 48" | E | 14.04' | to a point; thence |
| 7) | S | 45° | 50' | 29" | E | 6.47' | to place of beginning. |

The easement area contained by the foregoing amounts to 17,446 square feet or 0.4005 acres more or less.

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Utility Easements
 Page 2 of 4

20' Public Sewer Easement-1

Beginning at a point on the southern right-of-way line of Taneytown Pike, Maryland Route 140, said point being the end of curve C-1 as shown on a plat entitled 'Public Utility Easement Plat' recorded in Plat Book 105 at Page 130 among the Land Records of Frederick County, Maryland, thence with said right-of-way line the following courses and distances now defining the 20' Public Sewer Easement as shown on the above reference plat:

1)	S	57°	48'	48"	E	4.73'	to a point; thence leaving said right-of-way line in a southerly direction the following three (3) courses and distances,
2)	S	43°	32'	39"	W	138.76'	to a point; thence
3)	S	54°	56'	52"	W	268.31'	to a point; thence
4)	S	33°	42'	49"	W	243.76'	to a point; said point along the proposed northern Town Pump Station Easement line, thence with said line in a westerly direction the following course and distance
5)	N	65°	38'	04"	W	20.27'	to a point; thence
6)	N	33°	42'	49"	E	250.80'	to a point; thence
7)	N	54°	56'	52"	E	270.07'	to a point; thence
8)	N	43°	32'	39"	E	134.47'	to a point; said point being along the southern right-of-way line of Taneytown Pike and designated as C-1 on the above referenced Easement Plat, thence by a curve to the right having a radius of 58.00 feet and a length of 15.42 feet with a chord bearing and distance,
9)	S	51°	30'	38"	E	15.47'	to place of beginning.

The easement area contained by the foregoing amounts to 13,063 square feet or 0.2999 acres more or less.

Utility Easements
 Page 3 of 4

20' Public Sewer Easement-2

Beginning at a point along the 5th line of the proposed Public Water and Sewer Easement described above, said point being N 24° 22' 16" E 145.91' from beginning of the said 5th line as shown on a plat entitled 'Public Utility Easement Plat' recorded in Plat Book 105 at Page 130 among the Land Records of Frederick County, Maryland, thence the following courses and distances now defining the 20' Public Sewer Easement as shown on the above reference plat:

- 1) N 65° 37' 44" W 342.78' to a point; thence
- 2) N 24° 22' 16" E 20.00' to a point; thence
- 3) S 65° 37' 44" E 342.78' to a point; said point being along above said 5th line of the proposed Public Water and Sewer Easement thence
- 4) S 24° 22' 16" W 20.00' to a place of beginning.

The easement area contained by the foregoing amounts to 6,856 square feet or 0.1574 acres more or less.

20' Public Water Easement

Beginning at a point along the 1st line of the proposed Public Water and Sewer Easement described above, said point being N 24° 22' 16" E 45.31' from the end of the said 1st line as shown on a plat entitled 'Public Utility Easement Plat' recorded in Plat Book 105 at Page 130 among the Land Records of Frederick County, Maryland, thence the following courses and distances now defining the 20' Public Water Easement as shown on the above reference plat:

- 1) N 66° 00' 00" W 362.78' to a point; said point intersecting along the proposed Town Pump Station Easement thence with said easement the following two (2) courses and distances
- 2) N 24° 22' 44" E 19.36' to a point; thence
- 3) S 08° 19' 25" E 0.75' to a point; thence
- 4) S 66° 00' 00" E 363.18' to a point; said point being along said 1st line of the proposed Public Water and Sewer Easement described above, thence
- 5) S 24° 22' 16" W 20.00' to a place of beginning.

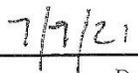
The easement area contained by the foregoing amounts to 7,256 square feet or 0.1666 acres more or less.

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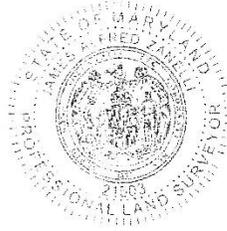
Utility Easements

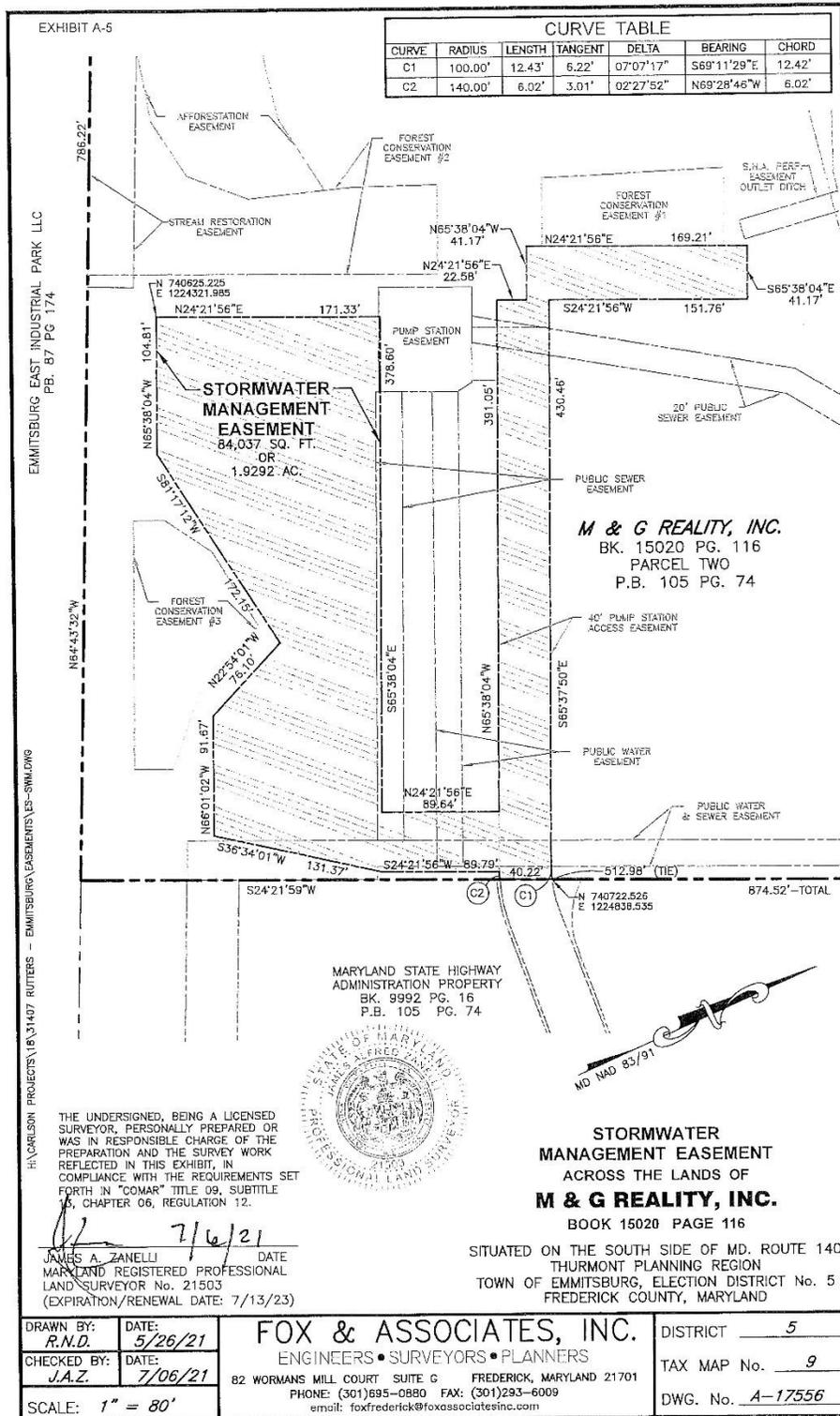
Page 4 of 4

The undersigned, being a licensed surveyor, personally prepared or was in responsible charge of the preparation reflected in this metes and bounds description, in compliance with the requirements set forth in "COMAR" Title 09, Subtitle 13, Chapter 06, Regulation 12.

James A. Zanelli Date
Professional Land Surveyor
Maryland Registration No. 21503
(Expiration/Renewal Date: July 13, 2023)
For Fox & Associates, Inc. Corp. #123





NO TITLE SEARCH
PROPERTY TAX ID: 05-173574

DEED OF EASEMENT/MAINTENANCE COVENANTS AND AGREEMENT
(WATER & SEWER UTILITY EASEMENT)

This Deed of Easement/Maintenance Covenants and Agreement (the "Deed of Easement") is made as of the _____ day of _____, 2021, by and between **Emmitsburg East Industrial Park, LLC**, a Maryland limited liability company (hereinafter referred to as "Grantor") the owner of property described as all of that parcel situated in Frederick County, Maryland, owned by Emmitsburg East Industrial Park, LLC, Book 7493, Page 1, Parcel Two, as shown on a plat of subdivision entitled "Addition Plat – Sheet 1 of 2 and Sheet 2 of 2, Emmitsburg East Industrial Park, LLC, Additions to Emmitsburg East Industrial Park, LLC" and recorded at Plat Book 87, Pages 174 and 175, among the Land Records of Frederick County, Maryland (the "Property"), and the **Town of Emmitsburg**, a body politic and municipal corporation of the State of Maryland (hereinafter referred to as "Grantee").

WHEREAS, the Grantor is the owner of the Property, as described above, located in the Town of Emmitsburg in Frederick County, Maryland, over and across a portion of which it is necessary to provide for water and sewer facilities, including but not limited to water lines, sewer lines, sewer and water service equipment and infrastructure (hereinafter referred to collectively as the "Facilities"), for the benefit of adjacent and nearby properties, and

WHEREAS, it is necessary to provide for the future maintenance and inspection of the Facilities, and

WHEREAS, it is necessary to provide notice to future owners of all or a portion of the Property of the existence of the Facilities on the Property.

NOW, THEREFORE, WITNESSETH that for and in consideration of the sum of Five Dollars (\$5.00) and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Grantor does hereby grant and convey unto the Town of Emmitsburg, a body politic and municipal corporation of the State of Maryland, its successors and assigns, a perpetual water and sewer easement and right of way in the area shown on that drawing entitled "Utility Easement Across the Lands of Emmitsburg East Industrial Park, LLC" prepared by Fox & Associates, Inc., Dwg. No. A-17500", a copy of which is attached hereto as **Exhibit A** and incorporated by reference herein, through under and across a portion of the Property as more particularly described as follows:

[INSERT METES AND BOUNDS DESCRIPTION OF EASEMENT]

TO HAVE AND TO HOLD the easement and right of way granted herein together with the rights and privileges appurtenant to their proper use and benefits forever by the Grantee, its successors and assigns.

AND THE GRANTOR, FOR ITSELF, ITS HEIRS, SUCCESSORS AND ASSIGNS, covenant and agree with the Grantee, its successors and assigns, as follows:

FIRST: That the Grantor will not make or permit any modifications to the easement and right of way granted herein, including but not limited to, the erection of any building or structure of any nature whatsoever, and any work that disturbs the earth, such as grading, filling, excavating, or planting, without the Grantee's prior written consent;

SECOND: That the Grantee, its successors and assigns, shall at all times operate, maintain and repair the Facilities, at its sole cost and expense, and shall have a right to enter the easement and right of way for the purpose of inspecting, maintaining, repairing and operating the

Facilities within the easement and right of way, the right of entry to be within the easement and right of way herein granted and along such other lines as the Grantee may deem necessary;

THIRD: Grantee, at its sole cost and expense, shall restore as nearly as possible the property to its original condition, including the backfilling of trenches and reseeded of lawns and pasture areas, disturbed during the original construction or future maintenance and/or repair of the Facilities;

FOURTH: The Grantor further covenants and agrees that the easement(s), right(s) of way, maintenance covenants and agreements contained herein shall run with the land and shall bind the Grantor and its successors and assignees and shall bind all present and subsequent owners of the Property;

FIFTH: The Grantor covenants and agrees that all parties having an interest in the Property which is subject to this deed of easement have executed this document and agreed to the terms hereof; and

SIXTH: The Grantor and its successors and assigns agree to make specific reference to this Deed of Easement in a separate notice paragraph in any contract, deed, lease or other legal document by which any possessory or equitable interest in the Property is conveyed. The notice shall provide notice to the purchaser or grantee of any possessory or equitable interest in the Property that:

(A) Sewer and Water Facilities are located on the Property;

(B) The Facilities, which may not be readily apparent or visible, are located in the area described herein and as shown on Exhibit A, a copy of which must be provided with the notice; and

(C) The Facilities may not be modified, relocated or removed unless approved in advance by the Grantee, and replaced in a manner which has no adverse impact on neighboring or adjoining properties; and

SEVENTH: The Grantor warrants specially said easement and right of way and will execute such further assurances as the Grantee may request.

[Signatures Appear on Following Pages]

**DEED OF EASEMENT/MAINTENANCE COVENANTS AND AGREEMENT
(GRANTOR SIGNATURE PAGE)**

WITNESS the hands and seals of the undersigned party.

GRANTOR:

WITNESS:

EMMITSBURG EAST INDUSTRIAL PARK, LLC,
a Maryland limited liability company



BY:  (SEAL)
Name: Sheridan E. Reaver, Jr.
Title: Manager

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

On this 10th day of June, 2021, before me, the undersigned officer, personally appeared Sheridan E. Reaver, Jr., who acknowledged himself to be the Manager of Emmitsburg East Industrial Park, LLC, a Maryland limited liability company, and that he, as said Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing on behalf of Emmitsburg East Industrial Park, LLC in said capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last abovementioned.


Notary Public

My Commission Expires: 11-22-23



[Signatures continue on the following page]

**DEED OF EASEMENT/MAINTENANCE COVENANTS AND AGREEMENT
(GRANTEE SIGNATURE PAGE)**

WITNESS the hands and seals of the undersigned party.

GRANTEE:

WITNESS:

THE TOWN OF EMMITSBURG, a body
corporate and politic of the State of Maryland

_____ BY: _____ (SEAL)
Name: _____
Title: _____

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2021, before me, a Notary Public of the State aforesaid, personally appeared _____, personally known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and he/she did acknowledge that he/she is the _____ of the Town of Emmitsburg, a body corporate and politic of the State of Maryland, and that he/she, as such _____, being authorized to do so, executed this instrument on behalf of said Town of Emmitsburg for the purposes therein contained, by signing on its behalf as _____ thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last abovementioned.

NOTARY PUBLIC

My Commission Expires:

CERTIFICATION

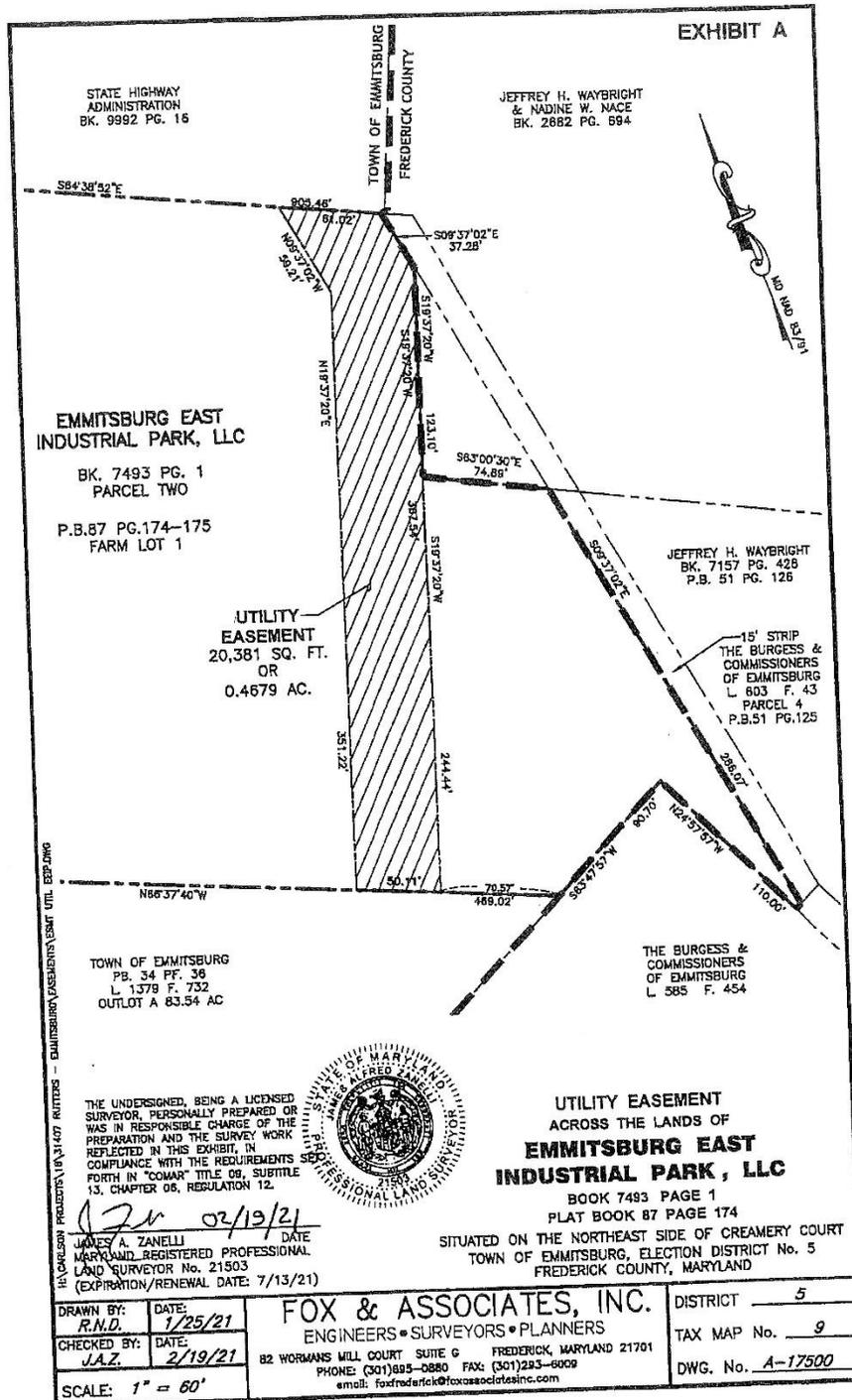
I, the undersigned, an attorney duly admitted to practice law before the Court of Appeals of Maryland, do hereby certify that the foregoing document was prepared by me or under my supervision.

Walter C. Martz, II

EXHIBIT A

DRAWING OF EASEMENT AREAS

[TO BE ATTACHED]



AGENDA ITEM# 4. Award forestry stand 10 logging bid for consideration: Presentation at meeting by town staff.

SAWTIMBER HARVEST – EMMITSBURG WATERSHED STAND #10

TIMELINE:

RFP Published June 1, 2021
Deadline, bids due by July 1, 2021

RFP ADVERTISEMENT:

- Public Notice under RFP Tab on Town’s Website – 06/01/2021 to 07/01/2021.
- Public Notice on Town’s Facebook and Channel 99 – 06/01/2021.
- Frederick News Post Publication – 06/01/2021 & 06/08/2021.
- Notice on MML Classifieds – 06/01/2021 to 07/01/2021.
- RFP mailed to 11 known logging firms – 06/01/2021.

BIDS RECEIVED (ALPHABETICAL ORDER):

Company:	Location:	Bid Amount:
Heavy Timber Construction, Inc.	Thurmont, MD	\$42,764.67
Tipton’s, Inc.	Union Bridge, MD	\$75,110.00

STAFF MEETING DATES:

- June 15, 2021 – Optional site visit with Town Forester.
- July 1, 2021 – Staff opened & reviewed bids.

TOWN STAFF RECOMMENDATION:

Staff recommends Tipton’s Inc. for the following reasons:

1. Tipton’s Inc. was the logger for Stands 5 & 6. Mike Kay, Maryland Department of Natural Resources, inspected the sites after the logging was completed, and he was very satisfied with their work.
2. They outbid the other bidder by \$32,345.33.

RECOMMENDED MOTION:

Motion to approve Tipton’s Inc. Stand 10 logging bid in the amount of \$75,110.00 with 90% of the funds being dedicated to the Water Fund and 10% to the trail maintenance line item to repair any damage that has been and/or may be caused by the logging operations.

AGENDA ITEM# 5. Hold public hearing and approval of Resolution 2021-01R, amendment to Chapter 3 of the 2015 Comprehensive Plan, for consideration: Presentation at meeting by town staff.



Town of Emmitsburg

Mayor Donald N. Briggs

June 29, 2021

Town of Emmitsburg
Attn: Mayor & Board of Commissioners
300A South Seton Avenue
Emmitsburg, MD 21727

Planning Commission

Mark Long, *Chair*
Joyce Rosensteel, *Vice-Chair*
Glenn Blanchard, *Secretary*
Bernard Franklin
Joseph Ritz III

Town Manager

Cathy Willets

Town Planner

Zach Gulden, MPA

Re: 2015 Comprehensive Plan Amendment – Certified & Attested Copy

Dear Mr. Mayor & Board of Commissioners:

The Town's Planning Commission recommended approval of Resolution 2021-01R, proposed amendment to Chapter 3 of the 2015 Comprehensive Plan (Amendment), at our meeting held on June 28, 2021. The motion passed with 4 votes in favor, 0 against, and 1 abstention. Commissioner Ritz abstained. Resolution 2021-01R and the Amendment, shown as Exhibit A, are attached to this letter.

The first Planning Commission meeting to consider the Amendment was held on March 29, 2021 in which the Commission forwarded the Amendment to Frederick County and the Maryland Planning Departments for the state mandated 60-day review period. The 60-day review period was held between March 30, 2021 and May 30, 2021. No comments were received from Frederick County. Comments received from various State of Maryland Agencies were received on May 27, 2021, and they are attached to this letter as Exhibit B. We held the state mandated Planning Commission public hearing on June 28, 2021 with the recommendation vote the same night. One public comment has been received to date from Ms. Amy Boehman of 328 Mountaineer's Way. She requested heavy tree buffering along the proposed South Seton Avenue to Frailey Road collector road if the Frailey Farm project ever comes to fruition.

In accordance with §3-204.c.4.i & ii. of the Maryland Land Use Code:

- (i) The recommendation of the planning commission shall be considered approved if the legislative body fails to approve, modify, remand, or disapprove the recommended plan in accordance with paragraph (1) of this subsection within 90 days after the date that the planning commission certifies an attested copy of the recommended plan to the legislative body in accordance with § 3-203(f) of this subtitle.
- (ii) Notwithstanding subparagraph (i) of this paragraph, if the legislative body determines that there are exigent circumstances so that the legislative body is unable to act in accordance with paragraph (1) of this subsection, by resolution the legislative body may extend the deadline in subparagraph (i) of this paragraph for no more than one 60-day extension.

Please contact Zach Gulden, Town Planner, if you have any concerns or questions.

Sincerely,

Mark Long
Planning Commission Chairman

Attachments – Exhibits A (14 pages) & B (18 pages)

300A South Seton Avenue • Emmitsburg, Maryland 21727
Phone 301.600.6300 • Fax 301.600.6313 • info@emmitsburgmd.gov • www.emmitsburgmd.gov

RESOLUTION: 2021
RESOLUTION NO. 2021-01R

Page 1 of 2

**A RESOLUTION TO AMEND THE COMPREHENSIVE OF THE
TOWN OF EMMITSBURG BY AMENDING THE GROWTH
AREAS AND ZONING DESCRIPTION IN CHAPTER 3**

BE IT RESOLVED, ENACTED AND ORDAINED, this 12th day of July 2021, by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by Article XI-E of the Maryland Constitution and Section 3-204 of the Land Use Article of the Annotated Code of Maryland, do approve the amendment to Chapter 3 of the Town's comprehensive plan.

WHEREAS, the Town of Emmitsburg (the "Town") is authorized by the Town Charter and provisions of Title 3, Subtitle 2 of the Land Use Article of the Annotated Code of Maryland (the "Maryland Code") to amend its comprehensive plan; and

WHEREAS, the Board of Commissioners has concluded that it is in the best interest of the Town to amend the comprehensive plan to update the Town's growth boundaries a well as various corrections and updates to Chapter 3.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE BOARD OF COMMISSIONERS OF THE TOWN OF EMMITSBURG that Chapter 3 of the Town's comprehensive Plan is amended and shall read as follows: See Exhibit A attached hereto.

EXPLANATION

* Bold and capitalized print indicates material added. The former provisions of Chapter 3 being removed are enclosed in brackets and struck through.

NOW, THEREFORE, BE IT HEREBY enacted this 12th day of July, 2021 by the Mayor and Board of Commissioners, that Resolution Number 2021-01R is true, correct, and duly adopted by the Mayor and Board of Commissioners of the Town of Emmitsburg.

PASSED this 12th day of July, 2021

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Madeline Shaw, Town Clerk

Timothy J. O'Donnell, President

_____APPROVED _____VETOED

this 12th day of July, 2021.

Donald N. Briggs, Mayor

**GROWTH AREAS &
ZONING**

The land use designations and growth boundary recommended by this plan are shown on the [2015] 2021 Land Use Map found in the Map's section. [There is no change to the growth boundary since 2009.] The map reflects minor changes made as a result of the 2009 Plan, INCLUDING [and] one area on East Main (MD 140) where a change to the Town Commercial land use category is recommended [in the 2015 plan.], **A CHANGE TO THE ZONING CLASSIFICATION OF 17381 NORTH SETON AVENUE FROM R-1 TO R-2 IS RECOMMENDED, A CHANGE TO THE ZONING CLASSIFICATIONS OF 17319, 17307, AND 17308 NORTH SETON AVENUE FROM R-1 TO B-1 IS RECOMMENDED, AND THE ADDITION OF 17443 AND 17439 IRISHTOWN ROAD & 05-172233 (NO ASSIGNED ADDRESS) TO THE GROWTH BOUNDARY. ZONING CHANGES FOR PROPERTIES LOCATED OUTSIDE OF THE TOWN BOUNDARY WOULD OCCUR AS PART OF THE ANNEXATION PROCESS.**

Existing Land Use

Emmitsburg's village center reflects the traditional pattern of development in the Town. Historic structures and a grid network of relatively narrow streets characterize Main Street and the areas on Seton Avenue one-to-two blocks from the central square. To the north of the village center, conventional suburban style development has been occurring, characterized by wider, curvilinear streets, and larger lots. US 15 largely provides an edge to Town and development has mainly occurred on the west side of this major highway. On the east side of US 15, there is currently one light-industrial land use, with the remainder of the lands in woodland, open fields, or agricultural use.

[2015] 2021 Land Use Plan

The general plan for land use within the Emmitsburg Town boundary, through 2030, is shown on the [2015] 2021 Land Use Map. The recommended land use categories are described below. These categories in themselves are not zoning districts, but land use designations. There could be more than one zoning district within the bounds of any land use designation.

1. Suburban residential: Areas presently developed or developing within this designation are generally characterized by conventional suburban patterns; curvilinear streets, cul-de-sacs, large setbacks from the street, etc. They include subdivisions such as Pembroke, Brookfield, and Northgate. The Plan recommends that these areas remain in this type of use. This Plan recommends requiring clustered development, maximizing open space, and a potential mix of housing types in future development in these areas.
2. Town Residential: Includes existing traditional neighborhood areas north of Main Street, as well as the South Seton area south of the Community Center. These areas are more likely to exhibit a rectilinear development pattern with smaller lot areas than the suburban residential. They are located within reasonable walking distance to town services, community, and educational facilities. To the north of Main Street, this area is bounded by a tributary to Flat Run, which essentially divides Town Residential from

Suburban Residential. This land use designation can include a range of residential densities and housing types.

3. Village Core: The area designated as Village Core includes downtown Emmitsburg located along the Main Street and the first couple of blocks of North and South Seton. The Village Core includes a mix of commercial employment, religious, civic, and residential uses.
4. Institutional – Community, government, religious core. Land devoted primarily to schools, government agencies, religious entities, and community centers form a core along South Seton Avenue.
5. Town Commercial: Lands located adjacent to the Village Core area that are needed for future commercial development are shown as Town Commercial. This land use does not include residential development, given water and sewer constraints at this time, coupled with the need to devote land specifically to commercial uses.
6. Suburban Commercial. Areas on the east side of US 15 that are in closest proximity to the US 15/MD 140 intersection are designated for commercial development. Given the distance and difficulty posed for safe pedestrian or bicycle access to these properties, they are considered to be more auto-accessible, suburban types of commercial development.
7. Employment Centers. Lands located primarily on the east side of US 15, and along Creamery Road east of the Willow Rill tributary to Flat Run. These areas are generally separated from other uses by topography and distance. Much of the land on Creamery Way is already developed as office/light industrial use.
8. Conservation/Parks. The Emmitsburg Community Park comprises 54.51 acres which extend from West Lincoln Avenue to Tom’s Creek. Other parks within the town limits include the Emmitsburg Memorial Park (5.79 acres) on Chesapeake Avenue, town-owned land in the Silo Hill development, and a privately-owned neighborhood park in the Northgate development. Future parks include a recreation/open space area by the developer in Brookside, and town-owned land in Emmit Gardens.

Conservation areas include the stream corridors and associated floodplains, wetlands, and areas where there is a significant combination of wooded/wetland, and stream environment. This designation can also apply to areas where development and infrastructure phasing is likely to occur in such a way that these lands should be placed in a reserve mode until development status is more applicable in terms of water and sewer capacity.

9. Agriculture. There are no lands within the town designated agricultural land use; although there are lands being utilized for the growing of hay until demand for another use occurs. There is an area within the growth boundary that is designated Agriculture (east of US 15 at Welty Ave.)

Municipal Growth Element (MGE)

Emmitsburg has utilized the criteria put forth by the Maryland Office of Planning publication entitled Sizing and Shaping Growth Areas (1998) to establish the growth boundary –

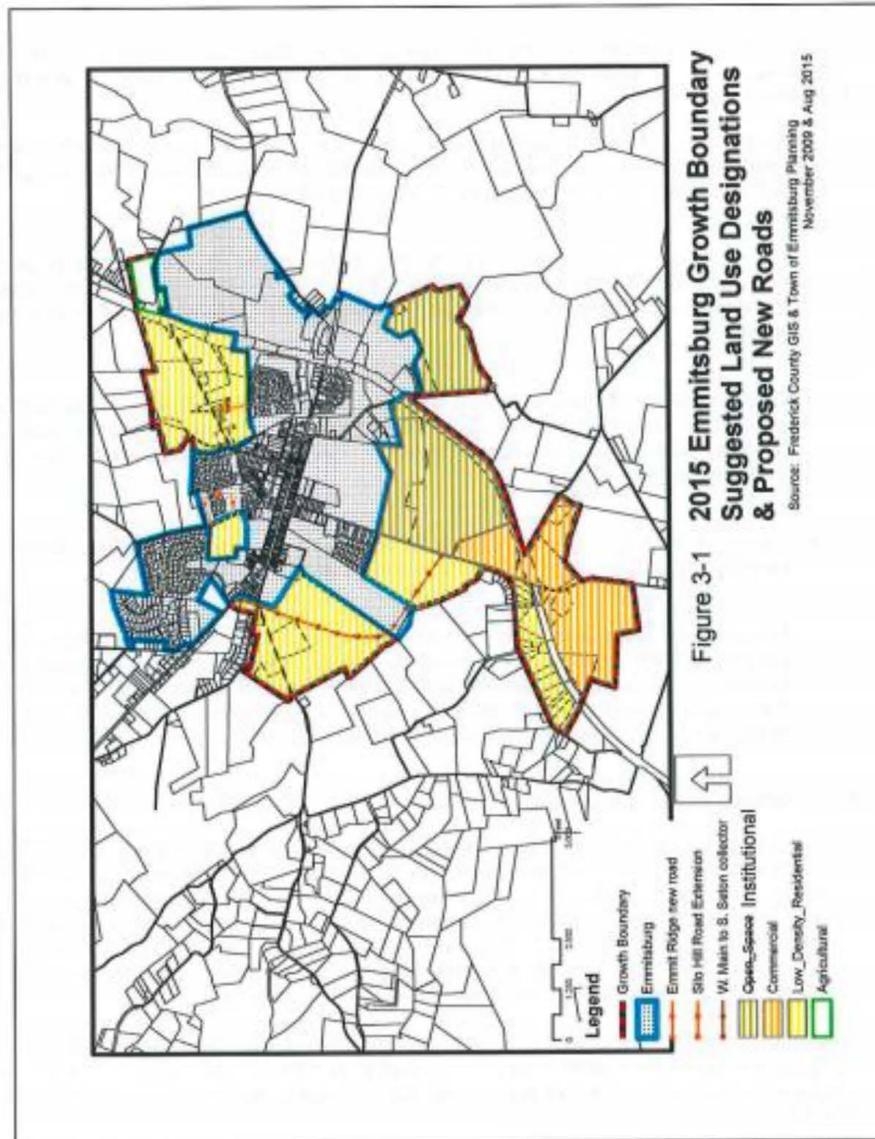
“...the size, and shape of growth areas, the location of boundaries, and the effectiveness of the boundaries are a function of the following factors....”, which can be summarized as:

- Purpose – Growth boundaries, for example, can serve to separate areas planned for growth versus rural protection, or guide extension of public infrastructure, or a combination of several goals.
- Time frame – The growth boundary should relate to the planning period covered within the Comprehensive Plan. It should reflect a reasonable expectation of potential growth and infrastructure capabilities within that time period.
- Characteristics of the land – The growth boundary should relate to the existing pattern of development, consider infill and redevelopment, natural features such as slopes, environmental elements, existing and planned infrastructure, and political boundaries.
- Forces of growth – Elements such as perceived demand for housing, trends in community design, densities, population growth projections, etc.
- Supportive techniques and growth management practices – initiatives to control growth outside the boundary and to encourage growth within the boundary, to prescribe the design and character of development inside the boundary, to target growth-related project funding inside the growth area and protection-related funding outside the growth area.

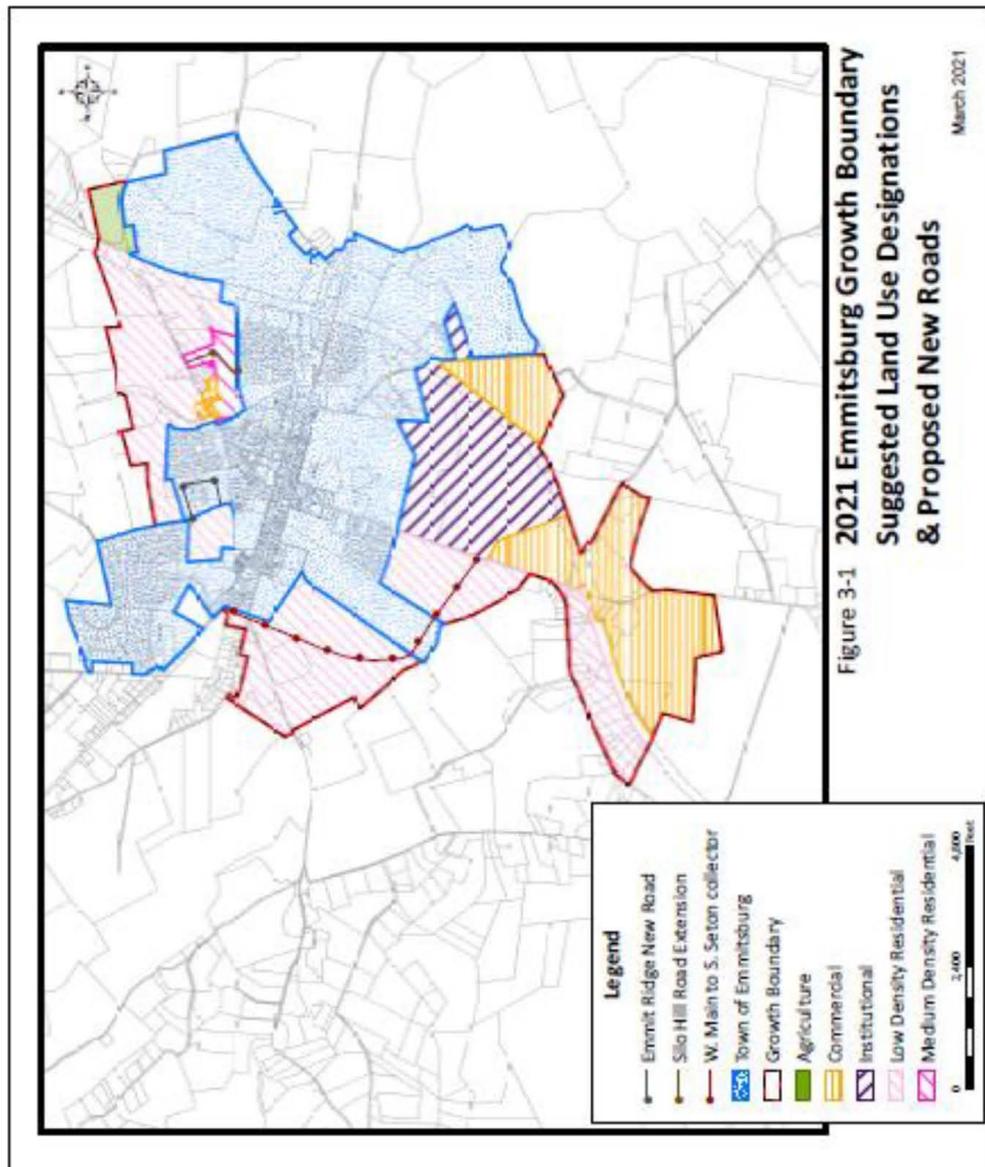
Emmitsburg Growth Boundary

As a result of considering the State-issued criteria, the growth boundary was pulled in significantly in the 2009 Emmitsburg Comprehensive Plan, compared to the 1998 Emmitsburg Comprehensive Plan. An effort to match the Frederick County growth boundary map as much as possible also influenced which properties were included in the town growth area. The [2015] 2021 Growth Boundary map – Figure 3-1, is **SIMILAR [identical]** to the 2009 map, with the exception of changing the Open Space designation to Institutional to reflect the current land uses within those areas, **A CHANGE TO THE ZONING CLASSIFICATION OF 17381 NORTH SETON AVENUE FROM R-1 TO R-2, A CHANGE TO THE ZONING CLASSIFICATIONS OF 17319, 17307, AND 17308 NORTH SETON AVENUE FROM R-1 TO B-1, AND THE ADDITION OF 17443 AND 17439 IRISHTOWN ROAD & PARCEL 05-172233 TO THE GROWTH BOUNDARY.**

Current map to be removed



Amended map to be added to page 3-4



Lands designated Low-Density Residential on the Growth Boundary map, and where the proposed use would likely be new residential, constitute approximately ~~[394]~~ 395 acres, including a few small existing single family lots. Current land use on these areas is agricultural.

LANDS DESIGNATED MEDIUM DENSITY RESIDENTIAL ON THE GROWTH BOUNDARY MAP, AND WHERE THE PROPOSED USE WOULD LIKELY BE NEW RESIDENTIAL, CONSTITUTE APPROXIMATELY 23 ACRES. CURRENT LAND USE ON THIS AREA IS AGRICULTURAL.

Institutional designations within the growth boundary total approximately ~~[253]~~ 168 acres. These properties are already developed, including Daughters of Charity, AND FEMA/NETC, ~~[and the Town's Waste Water Treatment Plant]~~, so would not have an impact on water/sewer capacity. They have been included in the growth boundary to create continuity for proposed annexations of adjacent properties, and to match the County growth area map.

Commercial designations comprise approximately ~~[179]~~ 255 acres, including vacant land owned by Mount St. Mary's (MSM) AND THE DAUGHTERS OF CHARITY, a gas station, ~~[a]~~ TWO restaurantS ~~[property]~~, Mountain Manor rehabilitation center, a Potomac Edison property, AN AUTO SERVICE GARAGE, A FORMER AUCTION, and small vacant parcels. ~~[This area and designation matches the County growth area map.]~~ Mount St. Mary's operates its own water/sewer system, and Mountain Manor is connected to that system, so it does not seem likely that MSM vacant lands developed in the future would need Emmitsburg water and sewer services. The Frederick County Water and Sewerage Plan contains information regarding the Mount St. Mary's water/sewer system.

There is a stretch of Low Density Residential designation along Old Emmitsburg Road, comprising approximately 54 acres. This area is mostly developed with single-family residential, and was included within the boundary to match the County plan and provide a connection to MSM.

Other aspects and considerations to note relative to the growth area map are:

1. **Silo Hill connector.** A COLLECTOR road connection from North Seton Avenue to Silo Hill Road would help provide some relief relative to traffic traveling through the Square, and make local trips more convenient for some residents.
2. **Old Emmitsburg Road past South Seton.** The Town plan does not include the existing rural residential area on the west side of Old Emmitsburg Road in the growth area. The Town should not extend water and sewer to additional rural residential areas. The Town has included some Mount St. Mary's properties in the growth areas to allow any future collaborations on facilities and infrastructure to occur.
3. **Mountain View Road Rural Residential.** There are properties along Mountain View Road that are served by Town water and sewer, but are not within the town boundary.

There would be no benefit created for the town by annexing this area, so it is *not* included in the growth boundary.

4. **Collector Road.** The 2009 Town Comp Plan perceived the need for a collector road extending from West Main (Rte. 140) to South Seton to accommodate traffic circulation needs generated by any future development, as well as the likely increase in commuter traffic from outside of Emmitsburg. A conceptual route is shown on the plan.
5. **Northgate to Irishtown Road.** There is only one entrance/exit to the Northgate subdivision, which is prone to flooding during major rain events. Realizing that a second access point would be beneficial, the Town has investigated options to provide a connection to Irishtown Road; however, this is not likely to occur until land along Irishtown Road is developed and a road created as part of the development.

Future zoning and development decision-making must be consistent with the adopted land use plan for Emmitsburg. It will be extremely important to evaluate proposed development against infrastructure capacity, as well as other sustainability criteria as described in other sections.

~~Frederick County Growth Area~~

~~There are disparities between the Frederick County Growth Areas and the Town of Emmitsburg Growth Boundary. The Town gave careful consideration to the extent of their growth boundaries during the 2009 Comprehensive Plan process, and there has been no subsequent reason to change. The County may undertake an effort to make their growth boundaries match those of the towns during a future planning effort. The differences include:~~

- ~~1. County map includes Mountain View Road, Town does not. Many of these properties already have town water/sewer service, and there is no other reason for them to annex.~~
- ~~2. County map includes additional parcel (Map 8/parcel 4) along Annandale Road, which the Town did not choose to include. Current use is active agricultural. Town growth boundary follows the property line of Map 8/parcel 38, while County map does not follow property lines at this point – the reason is not apparent.~~
- ~~3. Welty Road at US 15. Town growth boundary includes Map 4 parcels 43, 54, 55 County does not. Both include Map 4/parcel 16. The Town designated all of these as Agricultural Land use.~~

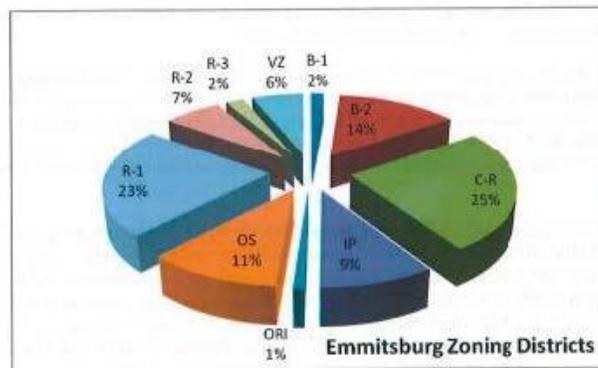
~~Note: Parcel 300 1501 is mostly within the Town with R 2 Medium Density Residential zoning. On the County Comprehensive Plan map, the in-county portion is shown as Village Center. The County should evaluate this designation during its next County Plan review.]~~

ZONING

The current zoning of Emmitsburg can be seen on the Emmitsburg Zoning Map in the Map's section. There are 11 zoning designations currently established in the zoning ordinance, and they are described below. ~~[The designations, "Residential Suburban" and "Highway Services" are not in use in any existing zoning area.]~~ The approximate number of acres of land in each zoning category as of ~~[May 2015]~~ **MARCH 2021** is shown in figure 3-2.

Current Figure 3-2 to be removed

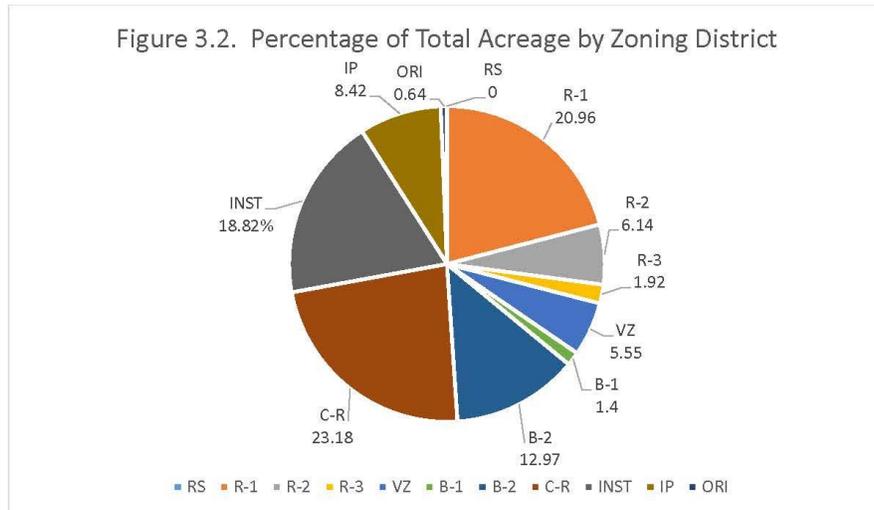
Figure 3-2. Percent of Total Acreage by Zoning District



Grouping the zoning districts by more general type of use allowed yields the following information:

TYPE	Acres	%	Allowed uses
Commercial	131.08	16%	Retail, hotels, office
Cons./Rec.	212.51	25%	Parks, open space, reserve
IP/ORI	86.04	10%	Job centers
Residential	266.70	32%	Residential - all types
Institutional	91.80	11%	Schools, churches, government
Village Zone	50.86	6%	Mixed residential & Retail, Office
Roads and ROW	107.03		acres

Amended Figure 3-2 to be added to page 3-7



Grouping the zoning districts by more general types of use allowed yields the following information:

Type	Acres	%	Allowed uses
Commercial	[131.08] 131.72	[16] 14.37	Retail, hotels, office
Cons./Rec.	212.51	[25] 23.18	Parks, open space, reserve
IP/ORI	86.04	[10] 9.06	Job centers
Residential	[266.70] 266.03	[32] 29.02	Residential – all types
Institutional	[91.80] 177.19	[11] 18.82	Schools, churches, government
Village Zone	50.8	[6] 5.55	Mixed residential & Retail, Office
TOTAL	924.29	100	838.92 TOTAL ACRES BEFORE 2021 AMENDMENT
Roads and ROW	107.03	---	---

The zoning districts currently listed in the Town of Emmitsburg Code are described below. [Some] ONE of the districts [are] IS not currently applied to any area in Emmitsburg, as evidenced by the number of acres listed.

Residential Zoning

Residential Suburban (RS): 0 acres. This residential zone allows for lower density development on large lots in outlying areas beyond the core of Emmitsburg. The minimum lot size is 20,000 square feet, with a minimum lot width of 100 feet. It requires a minimum front yard setback of 35', side yard setback of 12 feet and rear setback of 30 feet. This district allows for single-family homes and community facilities.

Low-Density Residential (R-1): [192.75] 192.11 acres. This residential zone allows for single-family residential units characterized by larger lots and green space. The minimum lot size is 12,000 square feet, with a minimum lot width of 85 feet. It requires front yard setback of 35 feet, side yard setback of 12 feet and rear setback of 30 feet. This district allows for single-family homes, planned-unit developments, community facilities, and certain business uses of historic structures.

Medium-Density Residential (R-2): 56.32 acres. This residential zone encourages compact development that maintains green space – potentially for recreational use – and avoids floodplains, steeper slopes, and other areas inappropriate for development. The minimum lot size is between 6,000 and 8,000 square feet, with a minimum front yard setback of 35 feet, side yard setback of 10 feet and rear setback of 30 feet. This district allows for all uses permitted in the low-density residential zone as well as duplexes and town houses. Town houses have a special set of regulations, which allow a density of 7.26 units per acre. Generally, front yard setbacks for town homes are 25 feet and rear yard setbacks are 35 feet.

High-Density Residential (R-3): 17.6 acres. This residential zone seeks to provide a range of housing types which provide access to street networks and activity centers, while encouraging creation of green space. The minimum lot size is between 6,000 and 8,000 square feet, with a minimum front yard setback of 35 feet, side yard setback of 10 feet and rear yard setback of 30 feet. This district allows for all uses permitted in medium density districts as well as multifamily dwellings. Town houses are also allowed in this zoning category at a density of 7.26 units per acre.

Mixed-Use Zoning

Village Zone (VZ): 50.86 acres. This district allows for a mix of residential, small business, civic, religious, emergency services and government service uses in an effort to maintain the character of Emmitsburg, create a place for community, and strengthen the local economy. Allowable uses in this district include; medium to high-density residential uses, community facilities, lodging, medical centers, churches, neighborhood retail, business and professional offices, banks, fire and rescue, etc.

Commercial Zoning

Neighborhood ~~[Business]~~ COMMERCIAL District (B-1): [12-18] 12.82 acres. This district allows for a mix of pedestrian-scaled retail and service businesses. Allowable uses include; lodging; major retail; food, drug, and beverage; specialty shops; service and recreation; and business and professional uses as defined in Section 20.020 of the Emmitsburg Zoning Ordinance.

General ~~[Business]~~ COMMERCIAL District (B-2): 118.90 acres. This district allows for the grouping of shopping, service, office, and entertainment uses with requirements for vehicular accessibility and pedestrian safety. Allowable uses include all those uses allowable in the Neighborhood ~~[Business]~~ COMMERCIAL District as well as; banks, repair services, service stations, restaurants, funeral homes, vehicle service centers, and car washes.

~~[Highway Service District (HS): 0 acres. This district primarily allows for services and automobile needs for motorists, including service stations, motels, and restaurants. This includes lodging, restaurants, vehicle service stations, office buildings, and fire services as defined in Section 20.040 of the Emmitsburg Zoning Ordinance.]~~

[Open Space Zoning]

~~[Open Space District (OS): 91.8 acres. This district seeks to preserve open spaces within the Town. Allowable uses in this district include farms, nurseries, parks, nature and wildlife preserves, schools and churches, flood control, and nursing homes as defined in Section 28 of the Emmitsburg Zoning Ordinance. (Since the 2010 rezoning, when the C R zone was created as described below, the lands designated Open Space actually contains only Institutional uses, and the generally undeveloped open spaces are designed C R. This section of the zoning ordinance should be considered for a new name, such as Institutional and adjustments to text to reflect the actual uses.)]~~

Conservation-Recreation (C-R): 212.51 acres. This district was created during the 2010 rezoning. It is intended to conserve public and private land for the protection of natural resources, stream corridors, recreation, and agricultural or silvicultural use through minimal development and low-impact uses. In general, uses specified in this district do not require additional water capacity, and/or lands in this district do not currently have access to water and sewer infrastructure required to undertake development of uses allowed in other zoning districts. Town parks, some stream corridors, and private lands where development may occur in the future, if conditions at some future time warrant a zoning change, and resources are available. It is not intended to have permanent preservation as its purpose.

INSTITUTIONAL ZONING

INSTITUTIONAL (INST): 172.47 ACRES. THIS DISTRICT IS INTENDED TO ACCOMMODATE CIVIC, EDUCATIONAL, AND CULTURAL USES, SUCH AS LIBRARIES, MEETING HALLS, SCHOOLS, FIRE

AND RESCUE STATIONS, POST OFFICES, GOVERNMENT BUILDINGS, MEMORIALS, MUSEUMS, PLACES OF WORSHIP, AND SIMILAR FACILITIES.

INDUSTRIAL ZONING

INDUSTRIAL PARK (IP): 77.21 ACRES. THIS DISTRICT IS INTENDED FOR THE LOCATION OF BOTH HEAVY COMMERCIAL AND LIGHT INDUSTRIAL USES WHICH ARE BASICALLY SIMILAR IN NATURE AND TOO FEW IN NUMBER TO WARRANT SEPARATE DISTRICTS. THESE USES ARE OF SUCH SIZE AND CHARACTER AS TO DEEM THEM INAPPROPRIATE FOR OTHER COMMERCIAL AND INDUSTRIAL DISTRICTS. THIS DISTRICT IS INTENDED FOR THEIR LOCATION IN A MANNER THAT WOULD MAKE THEM LEAST OFFENSIVE TO ONE ANOTHER AND TO ADJACENT LAND USE DISTRICTS.

OFFICE, RESEARCH, INDUSTRIAL (ORI): 5.83 ACRES. THIS DISTRICT IS INTENDED TO PROVIDE FOR THE DEVELOPMENT OF OFFICE, RESEARCH, AND LIMITED MANUFACTURING USES IN HIGH VISIBILITY LOCATIONS ALONG MAJOR HIGHWAYS. DEVELOPMENT IN THIS DISTRICT SHALL BE CHARACTERIZED BY AN ABSENCE OF NUISANCES IN A CLEAN AND AESTHETICALLY ATTRACTIVE SETTING. THIS DISTRICT SHALL PERMIT LIMITED MANUFACTURING, FABRICATION, OR ASSEMBLY OPERATIONS WHICH WOULD, BY NATURE OF THE PRODUCT OR MAGNITUDE OF PRODUCTION, BE COMPATIBLE WITH RESEARCH, PROFESSIONAL, OR BUSINESS OFFICES.

During the Comprehensive Rezoning following the 2009 Plan, recommendations made in the 2009 Plan were implemented. Generally, this included consolidating various commercial/office designations, such as H-S, B-2, and ORI into more usable areas designated as B-2, General Commercial, and eliminated split-zoned parcels.

The Antique Mall property in the downtown area was changed from IP (Industrial) to VZ (Village Zone) in order to eliminate a potentially incompatible future use, and to expand the mixed-use commercial/residential zoning for the village core.

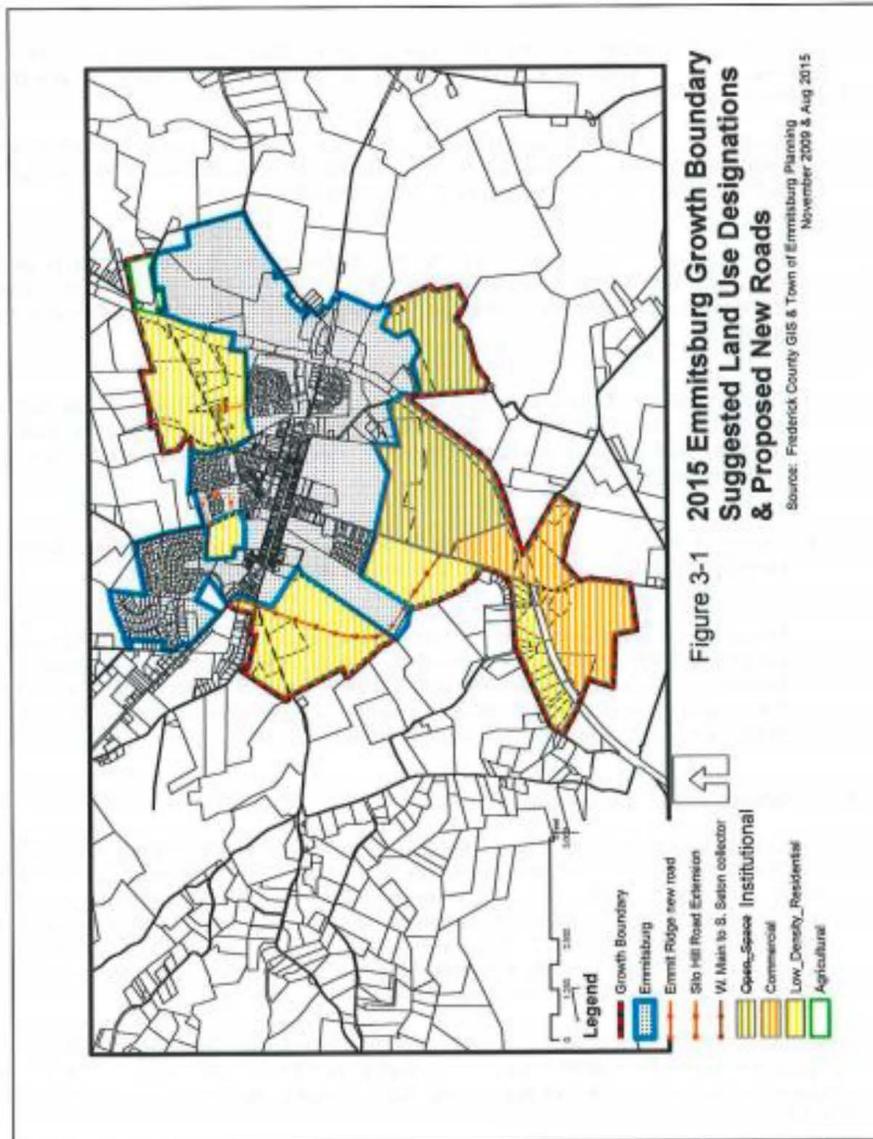
Zoning Incompatibilities

There do not appear to be any zoning conflicts under the current zoning. The 2010 rezoning effort mentioned above sought to eliminate any potential zoning incompatibilities. The Town Board adopted ~~[a Commercial]~~ buffer ordinances ~~[(15-02)]~~ **20-08 & 20-09** on ~~[June 15, 2015]~~ **OCTOBER 5, 2020** to provide screening **FOR NON-RESIDENTIAL** ~~[commercial]~~ zones **THAT** are adjacent to residential zones.

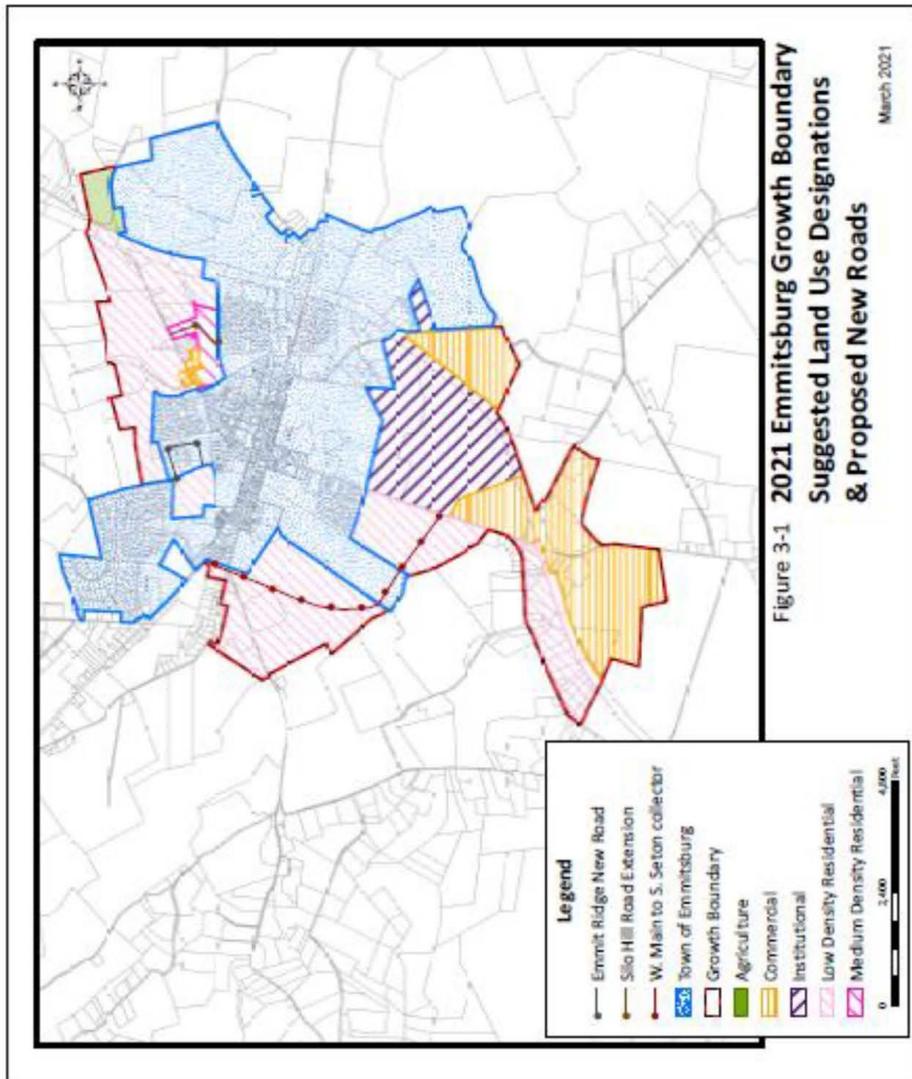
Zoning Issues to Consider

- Complete the Cluster Development ordinance during 2016 so that fiscal, environmental, and quality of life aspects of any new development are considered, and conservation of resources is accomplished.

Current Map 7 to be removed



*Amended Map 7 to be added *



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor



Exhibit B
Robert S. McCord, Secretary
Sandy Schrader, Deputy Secretary

Maryland
DEPARTMENT OF PLANNING

May 27, 2021

Mark Long, Chairperson
Emmitsburg Planning Commission
Town of Emmitsburg
300A South Seton Avenue
Emmitsburg, MD 21727

Dear Mr. Long:

Thank you for forwarding the Town of Emmitsburg's Draft 2021 Comprehensive Plan Amendment. We appreciate your participation in the state plan review process.

The Maryland Department of Planning (Planning) feels that good planning is important for efficient and responsible development that adequately addresses resource protection, adequate public facilities, community character, and economic development. Keep in mind that Planning's attached review comments reflect the agency's thoughts on ways to strengthen the Town's proposed amendment as well as satisfy the requirements of the State Land Use Article.

The Department forwarded a copy of the draft amendment to State agencies for review including, the Maryland Historic Trust and the Departments of Transportation, Environment, Natural Resources, Business and Economic Development, and Housing and Community Development. To date, we have received comments from the Maryland Historic Trust, Maryland Housing and Community Development, Transportation, Commerce and the Environment have been included with this letter. Any plan review comments received after the date of this letter will be forwarded upon receipt.

Planning respectfully requests that this letter and accompanying review comments be made part of the Town's public hearing record. Furthermore, Planning also asks that the Town consider our comments as revisions are made to the draft plan amendment, and to any future plans, ordinances, and policy documents that are developed.

Please feel free to contact me at (410) 767-1401 or Susan Llareus, Local Assistance & Training Planning Supervisor, at susan.llareus@maryland.gov

Sincerely,


Charles Boyd, AICP
Director, Planning Coordination

Cc: Zach Gulden, MPA, Town Planner & Zoning Administrator
Susan Llareus, Planning Supervisor
Joseph Griffiths, Local Assistance and Training Manager

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Larry Hogan, Governor
Boyd Rutherford, Lt. Governor



Robert S. McCord, Secretary
Sandy Schrader, Deputy Secretary

Maryland DEPARTMENT OF PLANNING

Maryland Department of Planning Review Comments May 27, 2021 Town of Emmitsburg Comprehensive Plan Amendment Draft 2021

The Maryland Department of Planning (Planning) has reviewed the Town of Emmitsburg's Draft 2021 Comprehensive Plan Amendment (*Draft Amendment*) and offers the following comments for your consideration. These comments are offered as suggestions to improve the draft comprehensive plan and better address the statutory requirements of the Land Use Article. Other state agencies as noted have contributed comments. Others may have comments submitted under a separate cover. If comments from other agencies are subsequently received by Planning, they will be forwarded to the town in a timely manner.

Summary of the Draft 2021 Comprehensive Plan Amendment

This *Draft Amendment* is for the limited purpose of expanding the municipal growth element (MGE) to include three properties at the periphery of the town, and to change the land use element to accommodate modification of uses for four properties already within the MGE. As submitted, all the changes to the comprehensive plan are limited to Chapter Three – Growth Area and Zoning.

The most recently approved plan by the Town of Emmitsburg is the 2015 Comprehensive Plan, adopted on November 16, 2015. Prior to that, the 2009 Comprehensive Plan governed land planning for the community. The 2015 Comprehensive Plan (2015 Plan) consists of 12 chapters including: Sustainability and Quality of Life; Public Participation; Growth Area and Zoning; Community Design; Infrastructure and Water/Sewer; Transportation and Circulation; Demographics and Housing; Economic and Community Development; Environmental Protection; Resource Conservation; Stewardship; and Guidelines and Implementation. This *Draft Amendment* contains references to the 2009 and 2015 revisions and the 2021 proposed modifications to Chapter Three.

The properties proposed to be added to the MGE, and anticipated to be annexed into the town in the future are listed below with the addresses and tax account numbers:

- Property A – 17443 Irishtown Road (1105-159016)
- Property B – 17439 Irishtown Road (1105-159024)
- Property C – No address (1105-172233)

The addition of Properties A and B to the MGE are for the purpose of a future development of approximately 48 single-family detached homes. Property C is intended to be used for woodland afforestation purposes (for a 25-year period) and the town is considering annexing the property into the town as a commercial zoning district.

Emmitsburg Draft 2021 Comprehensive Plan Amendment
Maryland Department of Planning Comments

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In addition to the amendment to expand the MGE, this amendment also includes changes to the existing land use map (Figure 3-1, 2015 Emmitsburg Growth Boundary Suggested land use Designations and Proposed New Roads, page 3-4) for the following properties.

- Property D – 17381 North Seton Avenue (1105-168031)
- Property E – 17319 North Seton Avenue (1105-170427)
- Property F – 17307 North Seton Avenue (1105-164885)
- Property G – 17308 North Seton Avenue (1105-161886)

The above referenced land use map will be superseded by the proposed land use map (Figure 3-1 2021 Emmitsburg Growth Boundary Suggested land use Designations and Proposed New Roads, page 3-4).

Property D is proposed to change from low-residential to medium-residential density land use for the purpose of a development of 34 single-family detached homes and 29 townhouses. The town is considering annexing the property into the town.

Properties E, F, and G are all currently shown on the land use plan as low-residential land uses. There are existing non-conforming commercial uses on the properties including a restaurant, an auto service garage, and a former auction establishment. The town is proposing to change the land use designations to commercial for all three of the properties. The town is considering annexing the properties into the town.

Minimum State Law Requirements for a Municipality

Maryland's Land Use Article (LUA) sets forth the required components of a local comprehensive plan but does not mandate a specific format. As such, local governments address these required elements in a manner that fits the needs of their community and the resources available to respond to the issues explored during the planning process.

LUA § 3-112 - Municipal Growth Element, governs the requirements for the inclusion of a MGE in the comprehensive plan of a Maryland municipality and is discussed below. Even though this *Draft Amendment* only modifies the MGE, because it includes the addition of housing and an increase in population, it effects other elements of the comprehensive plan, as discussed in the subheading Conformance to Section 3-201(a) of the Land Use Article.

In addition to the requirements of § 3-201(a) and (b) of this article, a planning commission must also implement the Maryland State Visions through the comprehensive plan, as discussed in the subheading Maryland State Visions Section 3-201(c) of the LUA immediately below.

Maryland State Visions Section 3-201(c) of the Land Use Article:

Maryland's Planning Act of 1992, and subsequent legislation in 2000 and 2009, requires that the Twelve Visions (12 Visions) of the State of Maryland be included and implemented through the comprehensive plan. Those visions are found in the Maryland Economic Growth, Resource Protection, and Planning Policy, part of the State Finance and Procurement Article, Subtitle 5-7A. Maryland law requires all local comprehensive plans be consistent with the 12 Visions. Planning believes these visions can be integrated into the *Draft Amendment* while respecting the vision set forth for the development/redevelopment/re-use of the properties proposed for inclusion in the MGE and those in which the proposal is to change the current land use map to accommodate current market conditions. The 2015 Plan lists the 12 Visions on pages B-1 and B-2 but does not delve into how the plan

Emmitsburg Draft 2021 Comprehensive Plan Amendment
Maryland Department of Planning Comments

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integrates these visions into the comprehensive plan from the town's perspective. Statements supporting the 12 Visions could be highlighted in the *Draft Amendment* in the areas that discuss the corresponding subject matter. For example, a specific vision that relates to the expansion of the municipal growth element and the land use changes could be emphasized in the *Draft Amendment*:

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

Conformance to Section 3-201(a) of the Land Use Article

The following is an analysis of the submitted *Draft Amendment* regarding the required elements, as stated in the Land Use Article for a local jurisdiction in accordance with Section 3-201(a):

1. **The planning commission for a local jurisdiction shall include in the comprehensive plan the following elements:**

(i) a community facilities element;

This plan update does not describe any population growth projections or how public services and infrastructure might be affected within the proposed municipal growth areas including those necessary for: (i) libraries; (ii) recreation; (iii) water and sewerage facilities; (iv) public safety, including emergency medical response; (v) stormwater management systems sufficient to ensure water quality both inside and outside the proposed municipal growth area; (vi) and public schools. Is the increase in density accounted for on Properties A and B as proposed to be added to the MGE? Is the change from low- to medium-residential land use and its associated increase in density on Property D accounted for regarding needed infrastructure to serve the future population?

(ii) an area of critical State concern element;

Planning encourages the town to consider referencing the current "Areas of Critical State Concern" list as discussed within the A Better Maryland plan. Here is a link to the website:

<https://abetter.maryland.gov/plan/pages/areas-of-critical-state-concern.aspx>.

Through A Better Maryland, state agencies deemed these as important areas for collaboration between Maryland and its jurisdictions.

(iii) a goals and objectives element;

The goals and objectives of this *Draft Amendment* are to expand the MGE to include three additional properties for residential growth and to meet woodland conservation requirements in association with MS-4 permits for the town. The changes in the land use of properties already within the MGE facilitates additional residential growth of the community and promotes economic development through the continued use or re-use of properties used for commercial purposes. Planning suggests clarification in Chapter Three describing how the properties proposed to be added to the growth element and the changes in land use meet the existing goals of the 2015 adopted plan. This clarification could also include the establishment of new goals in the *Draft Amendment*.

Emmitsburg Draft 2021 Comprehensive Plan Amendment
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(iv) a housing element;

The passage of HB-1045 in 2019 has resulted in the requirement of a Housing Element in all comprehensive plans adopted after June 1, 2020. It should be noted the new law requires a comprehensive plan to address the need for low-income and workforce housing, using the definitions contained in [§3-114](#) of the Land Use Article and §4-1801 of the Housing and Community Development Article. Since this *Draft Amendment* will be adopted after June 1, 2020, and the addition of lands into the municipal growth element include properties for development of housing, the *Draft Amendment* redevelopment should be evaluated by the town for conformance to the requirements of HB-1045, specifically the use of the terms low-income and workforce housing, as applied to both rental and homeownership. Further, a needs assessment for the area should be added to Chapter Seven - Housing and Demographics. Planning has developed a Housing Element Models & Guidelines to address the recent legislation (HB 1045), which is contained within the [Maryland Department of Planning website](#) as a tool for local jurisdictions.

The city should also be aware of the recent passage of [Senate Bill 687](#) (2021) relating to State and Local Housing programs – Affirmatively Furthering Fair Housing. The intent of the bill is stated in the preamble of the bill. Section 3-114 of the Land Use Article is amended in the bill (effective January 1, 2022) to include the following:

- (d) (1) Local jurisdictions have a duty to affirmatively 24 further fair housing through their housing and urban development programs.
(2) The housing element of a comprehensive plan that is enacted or amended on or after January 1, 2023, shall include an assessment of fair housing, to ensure that the local jurisdiction is affirmatively furthering fair housing.
(3) On request of a local jurisdiction, the Department of Planning shall provide technical assistance for the purpose of developing the housing element of the comprehensive plan.
(4) This subsection does not require a local jurisdiction to take, or prohibit a local jurisdiction from taking, a specific action to affirmatively further fair housing.

This provision is currently not in effect, but Planning is collaborating with state agency partners to develop guidance and resources for jurisdictions to address these new housing element requirements.

(v) a land use element;

Section §3-111 of the Land Use Article states “On a schedule that extends as far into the future as is reasonable, the land use element shall propose the most appropriate and desirable patterns for the general location, character, extent, and interrelationship of the uses of public and private land.” Section §3-111 permits the land use element to include a discussion of agriculture, commercial, forestry (in accordance with § 5-101 of the Natural Resources Article) industrial; recreational, and residential land uses. The *Draft Amendment* provides a short discussion of the proposal for future zoning of each of the properties and discussion of the land use change. For clarification purposes, Planning notes that the actual rezoning of properties occurs simultaneously with the annexation adoption. It should be clearly stated in the text of the *Draft Amendment* that the zoning change would occur as part of the annexation, and emphasize the land use change, as opposed to the rezoning.

Emmitsburg Draft 2021 Comprehensive Plan Amendment
Maryland Department of Planning Comments

May 27, 2021

The first three of these properties are the subject of the expansion of the MGE and the last four properties are land use changes proposed in this *Draft Amendment*, and all properties are anticipated to be annexed into the town in the future.

Property & acreage	Acreage	Proposed land use	Current land use per FRED CO map	Current Zoning per FRED Co zoning	Land use shown in 2015 CP
Property A	27.26 acres	Low residential	Agricultural	Agricultural	N/A-outside municipal growth element
Property B	1.79 acres	Low residential	Agricultural	Agricultural	N/A-outside municipal growth element
Property C	70.71 acres	Commercial	Agricultural	Agricultural	N/A-outside municipal growth element
Property D	22.97 acres	Medium residential	Low residential	Agricultural	Low residential-within GB
Property E	2.81 acres	commercial	Commercial	General commercial	Low residential-within GB
Property F	0.74 acres	commercial	Commercial	General Commercial	Low residential-within GB
Property G	1.47 acres	commercial	Commercial	General Commercial	Low residential-within GB

The growth area boundary land use acreage changes depicted in the chart above are as follows: low-density residential land use acreage increases by approximately 6 acres; new medium-density residential account for approximately 23 acres; and commercially-designated land acreage increases by approximately 75.73 acres.

Planning is concerned that there is already a substantial amount of land being proposed for commercial uses outside of the historic downtown area, as designated on the current 2015 land use map. Adding significantly more commercial land may ultimately have a negative impact on the commercial viability of the main street corridor within the historic district. Based on the town's zoning district provisions (page 3-10, Exhibit A – Chapter Three), all uses in a Neighborhood Commercial District, which tend to be the main street commercial uses, are also allowed under a General Commercial District, which is the future zoning proposed for Property C.

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(vi) development regulations element

There is no mention of changes proposed of development regulations anticipated with the expansion of the growth element as proposed, or the changes to the land uses proposed. It is unclear to Planning if the town's subdivision regulations include a cluster option for the development of residential subdivisions, but if not, Planning could provide assistance to the town to develop a set of cluster provisions for consideration. Cluster options for development provide for the protection of sensitive natural features such as streams and woodland, reduce development costs, as well as common open space for residents for private recreational facilities in a common ownership community. If the town believes it is time to update any regulations relating to the development of future housing or commercial development, this would be a good time to provide for a discussion, followed by a zoning text amendment to change the text of the appropriate ordinances.

(vii) sensitive areas element

Properties C, D, E, F, and G are all located in environmentally sensitive areas, as identified on the Maryland Department of Natural Resources (DNR) Merlin Environmental Resource and Land Information Network: [MERLIN-Marylands Environmental Resource & Land Information Network \(state.md.us\)](http://MERLIN-Marylands Environmental Resource & Land Information Network (state.md.us)). The properties described above are identified as having the following features on-site:

- 100 year flood- plain
- Water bodies such as streams or rivers
- Wetland
- DNR Targeted Ecological Areas

Targeted Ecological Area are lands and watersheds of high ecological value that have been identified as conservation priorities by DNR. These areas should be protected from any development to the maximum extent possible, and proper permits should be acquired to ensure that any encroachment into wetlands, streams, 100-year flood plain and other sensitive natural feature of the site are mitigated.

Chapter Nine of the 2015 Plan includes an objective promoting the environmental protection of sensitive lands within the jurisdiction of the Town of Emmitsburg. Planning suggests that the town be especially protective of Toms Creek (Property C), the associated wetlands on Properties C and D, and the existing woodland on all the properties to the greatest extent possible. Methods of protection could be the use of cluster regulations for residential developments, as discussed above, and/or the use of protective easements.

The staff report dated March 19, 2021 discusses the proposed commercial designation of Property C and indicates that the "owner of Property C has agreed to provide the town a 25-year forest conservation easement on the property, to help satisfy the town's MS-4 permitting requirements." It is unclear to Planning if and how such an environmental easement would sunset to allow for commercial uses after 25 years. The town should consult with MDE regarding the MS-4 permitting requirements to help address the uncertainty of the future use of Property C.

Emmitsburg Draft 2021 Comprehensive Plan Amendment
Maryland Department of Planning Comments

May 27, 2021

(viii) transportation element

The town should consider potential highway safety issues the proposed general commercial land use proposed for Property C (along with other planned commercial properties along US 15) might generate in the future. Access to US 15, a [principal arterial](#) in the Maryland State Highway Administration's roadway functional classification, is managed or controlled. These planned and proposed commercial uses along US 15 need prudent access management and controlled planning to maintain traffic safety.

(ix) a water resources element.

The *Draft Amendment* to the 2015 Plan includes expansion of the growth area boundary, as depicted on Figure 3-1 "2021 Emmitsburg Growth Boundary, Suggested Land Use Designations, and Proposed New Roads", to encompass several additional parcels to be annexed into the town, and amendments to the land use for several parcels already within the growth area.

The 2015 Plan includes an "Infrastructure Water and Sewer" chapter (as the Water Resources Element [WRE]), which states that "the comprehensive plan needs to show that there is a balance between any proposed changes in land use and the capacity of the water and sewer facilities" (page 5-1). A new wastewater treatment plant (WWTP) with Enhanced Nutrient Removal for Emmitsburg began operating circa July 2015; however, the chapter notes that there is no increase in hydraulic capacity associated with the treatment system upgrade. The Emmitsburg water supply system draws from surface water (Rainbow Lake) and wells (wells 1-7 and J) and is capable of treating up to 600,000 gallons per day. Tables 5.2 and 5.3 (pages 5-5 and 5-6) in the 2015 Plan show the total water system and sewer system capacities compared to water and sewer demand, and the remaining available capacity.

Since the amendment includes new development and areas being annexed into the Emmitsburg growth area that will require public water and sewer service and likely increase impervious surface coverage, the WRE chapter and Tables 5.2, 5.3, and 5.4 (Land Availability & Water Demand) should be updated to provide analysis of how the proposed changes in land use that will affect the town's water resource planning. The WRE chapter should also be amended to update the status of the Emmet Gardens Water Treatment Facility. Page 5-6 of the chapter indicates that "[t]he plan will need to evaluate any requests for rezoning in terms of water capacity, and consider the best way to invest this limited commodity."

(2) If current geological information is available, the plan shall include a mineral resources element.

The *Draft Amendment* should address the above issue if current geological information is available.

(3) The plan for a municipal corporation that exercises zoning authority shall include a municipal growth element.

The *Draft Amendment* modifies the MGE previously included in the 2015 Plan and is discussed above in the Summary of the Draft 2021 Comprehensive Plan Amendment, the Maryland State Visions 3-201(a) of the Land Use Article and the Conformance to Section 3-201(a) of the Land Use Article.

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Growth Tier Map

On January 23, 2013 Emmitsburg notified Planning that it had adopted Frederick County's growth tier map dated December 20, 2012. As provided for in § 1-509 of the Land Use Article, if the town does not incorporate the growth tier map into the comprehensive plan by the time the town conducts the 10-year review of the plan under § 1-416(a) or § 3-301(a) of the Land Use Article, the town's growth tier map shall be considered not adopted for purposes of § 9-206 of the Environment Article. If the town intends for the growth tiers to remain adopted, Planning recommends the town either: (a) formally incorporate the county tier map into the comprehensive plan and ask the county to amend its tier map to reflect the town's revised growth boundaries; or (b) adopt its own tier map (updated to reflect the revised growth area) and formally incorporate it into the comprehensive plan.

Planning also notes that there are mapping disparities between the town and the county boundaries as stated in the text in Chapter Three on pages 3-6 and 3-7. The modifications to the text for this update add the proposed changes to the MGE as described in the *Draft Amendment* to the list of mapping disparities. Planning suggests rather than listing the disparities, that transparency and discussion could resolve them, and Planning is willing to work with the jurisdictions to help solve these inconsistencies.

Preliminary Annexation Considerations

Regarding the future annexation of the properties, Planning provides the following preliminary comments:

- If Properties A, B and D are annexed into the town as low or medium -residential zoning, they will have similar zoning to the areas in the town adjacent to the property, but since the underlying county zoning is an agricultural zoning district, the proposed zoning would be more than 50% increase in density. This will require a waiver from the county if the properties are to be developed within five years at a density greater than 50% of the current county zoning.
- Properties C, E, F, and G are all currently zoned as the county's agricultural zoning district. It appears that the rezoning of the properties as commercial would be a substantial change of use and will require a waiver from the county for commercial development within five years. Planning understands that the properties may be annexed, and development may not begin within five years, or in the case of property C, it may be used for woodland preservation well beyond the restrictive five-year period.
- It is also noted that upon annexing, Property C will need to be connected to the town, most likely through annexing a portion of Creamery Road adjacent to the northern portion of the property where it is adjacent to the existing town boundary. The rest of Creamery Road should continue to be under the county jurisdiction to prevent an enclave, due to parcel account identification number 1105175356 lying outside of the town limits.

Preliminary Priority Funding Area Considerations

Regarding the future Priority Funding Area (PFA) status upon annexation, Planning provides the following preliminary comments:

- Properties A, B, and C are currently zoned as agriculture, are not currently serviced with public sewer and are not part of an existing PFA. If the governing water and sewer plan is amended to indicate that the properties are planned for sewer within ten years, the zoning is changed to a residential zoning of a minimum of 3.5 units per acre (R-1 as proposed for A and

Emmitsburg Draft 2021 Comprehensive Plan Amendment
Maryland Department of Planning Comments

May 27, 2021

B) and/or commercial zoning (as proposed for C), and are located within the town's MGE, they would qualify as PFA.

- Property D has a sewer category of PS (planned service area with a timeframe of 11 to 20 years). It would not be eligible for PFA with this sewer category unless the governing water and sewer plan is amended to indicate that the property is planned for sewer within ten years, and the zoning is changed to a residential zoning of a minimum of 3.5 units per acre (as proposed in the R-2 zone).
- Properties E and F have a sewer category of S5, which is a mid-range phase plan with a timeframe of 7-10 years. If the zoning is changed to a commercial zoning district, planning will consider it an employment use, and these parcels would qualify as PFA.
- Property G has a sewer category of PS (planned service area with a timeframe of 11 to 20 years). It would not be eligible for PFA with this sewer category unless the governing water and sewer plan is amended to indicate that the property is planned for sewer within ten years, and the zoning is changed to a commercial zoning district as proposed.

Emmitsburg is a Sustainable Community

It should be noted here that the Town of Emmitsburg is a Sustainable Community (7/19/2017), per the Department of Housing and Urban Development. As part of the Sustainable Community designation, quality of life, environment, economy, transportation, housing and local planning and land use are all subjects of the Sustainable Community Action Plan (SCAP), viewed through the lens of revitalization. Planning suggests the town review the *Draft Amendment* for consistency with the SCAP and consider if any of the proposals in this *Draft Amendment* support or contradict the desired outcomes, strategies and action items included in the SCAP. The following is a link to the Sustainable Communities designation for the Town of Emmitsburg: [Sustainable Community Action Plan \(maryland.gov\)](https://www.maryland.gov/our-agencies/department-of-housing-and-urban-development/sustainable-communities/sustainable-community-action-plan/)

General Comments

- Planning commends the town on a thoughtfully constructed *Draft Amendment*.
- Planning encourages the town to ask for assistance at any time in the future.
- Planning appreciates the clarity of the revisions provided in Chapter Three and suggests the use of addresses as an additional property identification to help interested parties identify properties that are the subject of this amendment.
- It would be helpful to see a total acreage of the town, a total of the acreage of the existing growth area, and a total of the proposed growth area to be added to the town with this *Draft Amendment*.

END MARYLAND DEPARTMENT OF PLANNING COMMENTS

Emmitsburg Draft 2021 Comprehensive Plan Amendment
State Agency Comments

May 27, 2021
Page 10

Maryland Department of Planning Review Comments
May 27, 2021
Town of Emmitsburg
Comprehensive Plan Amendment
Draft 2021

STATE AGENCY COMMENTS

The following pages contain comments from other State agencies in support of the Maryland Department of Planning (Planning) review of the Town of Emmitsburg Comprehensive Plan Amendment Draft 2021 as part of the standard 60-day review period for municipalities and non-charter counties. Comments not included here may be submitted under separate cover, or via the State Clearinghouse. If comments from other agencies are received by Planning, they will be forwarded to the County in a timely manner.

Attachments

Page 11	Maryland Department of the Environment
Page 13	Maryland Department of Transportation
Page 14	Maryland Historical Trust
Page 16	Department of Housing and Community Development
Page 17	Department of Commerce



Maryland
Department of
the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Ben Crumbles, Secretary
Horacio Tablada, Deputy Secretary

April 27, 2021

Susan Llareus
Maryland Department of Planning
301 West Preston Street
Suite 1101
Baltimore, MD 21201

RE: Local Plan Review: Town of Emmitsburg Comprehensive Plan Amendment
MD20210331-0236

Dear Ms. Llareus,

Below are the comments from the Maryland Department of the Environment regarding the above referenced project. Our response code is R1.

1. Any above ground or underground petroleum storage tanks, which may be utilized, must be installed and maintained in accordance with applicable State and federal laws and regulations. Underground storage tanks must be registered and the installation must be conducted and performed by a contractor certified to install underground storage tanks by the Land and Materials Administration in accordance with COMAR 26.10. Contact the Oil Control Program at (410) 537-3442 for additional information.
2. If the proposed project involves demolition – Any above ground or underground petroleum storage tanks that may be on site must have contents and tanks along with any contamination removed. Please contact the Oil Control Program at (410) 537-3442 for additional information.
3. Any solid waste including construction, demolition and land clearing debris, generated from the subject project, must be properly disposed of at a permitted solid waste acceptance facility, or recycled if possible. Contact the Solid Waste Program at (410) 537-3315 for additional information regarding solid waste activities and contact the Resource Management Program at (410) 537-3314 for additional information regarding recycling activities.
4. The Resource Management Program should be contacted directly at (410) 537-3314 by those facilities which generate or propose to generate or handle hazardous wastes to ensure these activities are being conducted in compliance with applicable State and federal laws and regulations. The Program should also be contacted prior to construction activities to ensure that the treatment, storage or disposal of hazardous wastes and low-level radioactive wastes at the facility will be conducted in compliance with applicable State and federal laws and regulations.
5. The proposed project may involve rehabilitation, redevelopment, revitalization, or property acquisition of commercial, industrial property. Accordingly, MDE's Brownfields Site Assessment and Voluntary Cleanup Programs (VCP) may provide valuable assistance to you in this project. These programs involve environmental site assessment in accordance with accepted industry and financial institution

1800 Washington Boulevard | Baltimore, MD 21230 | 1-800-633-6101 | 410-537-3000 | TTY Users 1-800-735-2258

www.mde.maryland.gov

For more information, go to www.emmitsburgmd.gov

Ms. Susan Llareus
Page 2

standards for property transfer. For specific information about these programs and eligibility, please Land Restoration Program at (410) 537-3437.

6. Borrow areas used to provide clean earth back fill material may require a surface mine permit. Disposal of excess cut material at a surface mine may requires site approval. Contact the Mining Program at (410) 537-3557 for further details.

Please let me know if you have any questions or concerns.

Sincerely,

Amanda R. Redmiles

Amanda R. Redmiles
Clearinghouse Coordinator
Maryland Department of the Environment



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Gregory Slater
Secretary

April 26, 2021

Ms. Susan Llareus
Maryland Department of Planning
301 West Preston Street
Suite 1101
Baltimore MD 21201

Dear Ms. Llareus:

Thank you for coordinating the State of Maryland's comments on the Town of Emmitsburg's Comprehensive Plan Amendment, hereafter referred to as the "Plan." The Maryland Department of Transportation (MDOT) offers the following comments from The Secretary's Office and the MDOT State Highway Administration (MDOT SHA).

General Comments:

- MDOT SHA notes that while the Highway Needs Inventory (HNI) includes US 15 between Biggs Ford Road and Pennsylvania, the HNI does not propose full grade-separation, leaving the existing highway and capacity largely intact as is. It should also be noted that the HNI connotes only need and does not signify a commitment of funding.
- MDOT SHA notes that especially where parcels are proposed to be upzoned and require access to MDOT SHA facilities, i.e., US 15 Business (Seton Avenue), the Town of Emmitsburg should be aware that when development proceeds, access permitting and potential trip mitigation will need to be coordinated with MDOT SHA District 7. Depending on the intensity of development, mitigation such as dedicated left-turn lanes may be merited and/or required along US 15 Business, which currently is a two-lane highway without turn lanes.

Thank you again for the opportunity to review the Plan. If you have any questions or concerns, please do not hesitate to contact Ms. Kari Snyder, Regional Planner, MDOT Office of Planning and Capital Programming (OPCP) at 410-865-1305, toll free at 888-713-1414, or via email at ksnyder3@mdot.maryland.gov. She will be happy to assist you.

Sincerely,

A handwritten signature in black ink that reads "Heather Murphy". The signature is written in a cursive, flowing style.

Heather Murphy
Director, OPCP, MDOT

cc: Ms. Kari Snyder, Regional Planner, OPCP, MDOT



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor

Robert S. McCord, Secretary
Sandy Schrader, Deputy Secretary

April 21, 2021

Ms. Susan Holm Llareus, PLA, ASLA
Regional Planner for Maryland Capital Region
Maryland Department of Planning
301 West Preston Street, Room 1101
Baltimore, MD 21201

Dear Ms. Llareus:

Thank you for the opportunity to review the Town of Emmitsburg Comprehensive Plan Amendment and submit comments on behalf of the Maryland Historical Trust.

This is an amendment to Chapter 3 of the Town's 2015 Comprehensive Plan that adds three properties (A, B and C) to the Town Growth Boundary and changes the zoning classification to four properties (D, E, F and G) within the Town Growth Boundary. Two resources associated with this amendment, although not directly affected by any proposed zoning changes on the adjacent parcels, have been determined to have enough historic significance and integrity to be eligible for inclusion in the National Register of Historic Places, the federal listing of historic and cultural properties maintained by the National Park Service. This evaluation does not carry any regulatory restrictions, but it does mean that any federal or state undertaking (funding, permitting, construction, etc.) must go through a review process with the goal of avoiding, minimizing, or mitigating harm to these important assets.

Property C - Addition to Town Growth Boundary

[Maryland Inventory of Historic Properties Number F-6-105](#)

Bridge 508 Creamery Road over Tom's Creek is a single span metal Pratt truss bridge owned by Frederick County built in 1928. It is a significant example of its type, and is determined to be eligible for listing in the National Register of Historic Places.

Property D - change in zoning classification

[Maryland Inventory of Historic Properties Number F-6-117](#)

Bridge 10001 Business U.S. Route 15 over Flat Run is a single span concrete arch bridge owned by the State Highway Administration built in 1927. It is a significant example of its type, and is determined to be eligible for listing in the National Register of Historic Places.

Maryland Historical Trust • 100 Community Place • Crownsville • Maryland • 21032

Tel: 410.697.9591 • toll free 877.767.6272 • TTY users: Maryland Relay • MHT.Maryland.gov

Additional information about these structures and the surrounding properties can be found in Medusa, the state's cultural resource information system.

https://mht.maryland.gov/research_medusa2.shtml

Thank you again for the opportunity to comment on the plan. If you have any questions, please contact me at (410) 697-9561 or steven.allan@maryland.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Steven H. Allan". The signature is stylized and cursive.

Steven H. Allan, AICP
Local Assistance and Training Planner
Office of Planning, Education and Outreach

Cc Nell Ziehl, Chief, Office of Planning, Education and Outreach
Joseph Griffiths, MDP
Rita Pritchett, MDP



LARRY HOGAN
Governor
BOYD K. RUTHERFORD
Lt. Governor
KENNETH C. HOLT
Secretary
OWEN McEVOY
Deputy Secretary

May 21, 2021

Mr. Joseph Griffiths
Manager of Local Assistance and Training
Maryland Department of Planning
301 West Preston Street, 11th floor
Baltimore, MD 21201

Dear Mr. Griffiths:

Thank you for the opportunity to review the proposed Town of Emmitsburg Comprehensive Plan Amendment (the Plan). The comments below are based on a review of the Plan by staff in the Maryland Department of Housing and Community Development (DHCD) Division of Neighborhood Revitalization.

Several of the Town's revitalization initiatives have been supported by DHCD's Community Legacy Program over the past five years, including commercial and residential façade improvements, ADA improvements for playground access, and improvements to the Town Square. The Town's revitalization efforts have focused on the older, historic portions of the Town. The focus on the historic core is reflected in Town's most recent Sustainable Community Plan, submitted in 2017.

The properties proposed for annexation and rezoning appear to be generally located outside the Town core and would not directly impact the revitalization activities outlined above. However, zoning changes outlined in the amendment would substantially alter the Town's character. In particular, the elimination of the open space zoning designation and proposed conversion of more than 400 acres of land to low density residential and commercial development is a concern.

Where conversion of farmland is chosen, a mix of densities would create more opportunities for to preserve open space, consistent with the character of the Town. A greater mix of land uses including commercial development, as well as affordable and workforce development could also create opportunities for support through financing programs administered by the Maryland Department of Housing and Community Development. Where commercial development is planned, care should be taken to assure that any new development doesn't pull investment and business development opportunities away from the Town's traditional business district. It should be noted that Town representatives have begun discussion with DHCD staff about applying for Main Street affiliate status to continue the revitalization of Emmitsburg's Main Street.

Again, thank you for the opportunity to comment on the Plan. If you have any questions regarding our comments, please email me at john.papagni@maryland.gov or call 410-209-5807.

Sincerely,

A handwritten signature in black ink, appearing to read "John Papagni".

John Papagni
Program Officer
Division of Neighborhood Revitalization



MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
2 N. Charles St. Suite 450 • Baltimore, MD 21201 • dhcd.maryland.gov
410-209-5800 • TTY/RELAY 711 or 1-800-735-2258





April 27, 2021

Susan Llareus
Maryland Department of Planning
301 West Preston Street
Suite 1101
Baltimore, MD 21201

RE: Local Plan Review: Town of Emmitsburg Comprehensive Plan Amendment

Dear Ms. Llareus:

I have reviewed the Town of Emmitsburg Comprehensive Plan Amendment and find that it is consistent with this Department's plans and programs.

Feel free to contact me if you have any questions or concerns about this review.

Sincerely,



James Palma
Senior Research Manager

cc. Rita Pritchett
File

AGENDA ITEM# 6. Zoning text amendment application, proposed Ordinance 2021-12, which would amend Town Code Section 17.08.190. The Board shall either: (1) Deny the application; or (2) Forward to the Planning Commission for recommendation & set public hearing for August 2, 2021: Presentation at meeting by town staff.

ORDINANCE SERIES: 2021
ORD. NO: 21 – 12

Page 1 of 1

AN ORDINANCE TO AMEND
TITLE 17
OF THE CODE OF EMMITSBURG
ENTITLED
ZONING

BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that §17.08.190 of the Emmitsburg Municipal Code, be amended as follows:

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in ~~{brackets and strike out}~~.

Chapter 17.08 – General Regulations

§17.08.190 – Conversion of garages, sheds, outbuildings, or other accessory structures.

~~A.~~ No garage, shed, outbuilding or other nonresidential structure existing on the lot at the time of **THE** adoption of this title may be converted to residential use unless said structure is able to meet all of the requirements of the zoning ordinance including, but not limited to, lot area per family and front, rear and side yards. **NO VARIANCE OR SPECIAL EXCEPTION WILL BE PERMITTED TO EXPAND A NON-CONFORMING USE.**

~~B. Because this requirement does not disallow the use of land for the purposes set forth in this title, but seeks only to prevent the overcrowding of the lot and environmental degradation of the neighborhood, the board of appeals is not authorized to grant a waiver or variance to this section.~~

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners passes the Ordinance over the veto of the Mayor.

PASSED this ___ day of _____, 2021

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Madeline Shaw, Town Clerk

Timothy O'Donnell, President

MAYOR

_____APPROVED _____VETOED

this _____ day of _____, 2021.

Donald N. Briggs, Mayor

I hereby certify that the foregoing Ordinance has been posted as required by Chapter 2.04 of the Emmitsburg Municipal Code.

Madeline Shaw, Town Clerk
Date:

AGENDA ITEM# 7. Renaming of ballfield #7 in Memorial Park for consideration:
Presentation at meeting by Commissioner Davis.

AGENDA ITEM# 8. TENTATIVE – Approval of an access easement on the WWTP property for the Frederick County Creek Re-Leaf program and authorize Mayor to sign on behalf of the Town for consideration:
Presentation at meeting by staff.

POSTPONED

AGENDA ITEM# 9. Approval of Resolution 21-6R, State of Maryland Capital Grants Project Water Clarifier grant submittal authorization, for consideration: Presentation at meeting by town staff.

RESOLUTION: 2021
RESOLUTION NO. 21 – 06R

Page 1 of 2

A RESOLUTION TO FILE AN APPLICATION FOR FINANCIAL ASSISTANCE WITH THE STATE OF MARYLAND TO CONSTRUCT A NEW WATER CLARIFIER

WHEREAS, the Town of Emmitsburg is eligible to receive funds from the State of Maryland through the Maryland Capital Projects Grant Program; and

WHEREAS, the Town of Emmitsburg has determined that constructing a new water clarifier with an estimated total cost of \$1,506,125.00 would assist the Commissioners in continuing to maintain the Town's water quality, reduce damage to the water treatment plant, and reduce the wasting of water through backwashes; and

WHEREAS, the State of Maryland has awarded the Town a Maryland Capital Project Grant in the amount of \$1,000,000.00 to assist with the design and construction of the water filter, pending approval of the Town's application and execution of a grant agreement by the Board of Public Works ("BPW"); and

WHEREAS, the application point of contact shall be Cathleen R. Willets, Town Manager; and

WHEREAS, the amount that the Town of Emmitsburg shall receive is \$1,000,000.00 if BPW approves the application and grant agreement; and

WHEREAS, if the application and grant agreement are approved, the Town of Emmitsburg would be required to contribute the remaining cost estimated at \$506,125.00.

NOW, THEREFORE, BE IT RESOLVED, that the Commissioners for the Town of Emmitsburg authorize the submittal of an application and grant agreement for state financial assistance in the construction of a new water clarifier in the amount of \$1,000,000.00; and

BE IT FURTHER RESOLVED, that Mayor Donald N. Briggs and Town Manager Cathleen R. Willets are authorized and empowered to execute any and all documents required for the submission of the application and grant agreement.

NOW, THEREFORE, BE IT HEREBY enacted this 12th day of July, 2021 by the Mayor and Board of Commissioners, that Resolution Number 2021 – 06R is true, correct, and duly adopted by the Mayor and Board of Commissioners of the Town of Emmitsburg.

PASSED this 12th day of July, 2021

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Madeline K. Shaw, Town Clerk

Timothy J. O'Donnell, President

_____APPROVED _____VETOED

this 12th day of July, 2021.

Donald N. Briggs, Mayor

M. SET AGENDA FOR NEXT MEETING: AUGUST 2, 2021 AT 7:30 PM

- 1.
- 2.
- 3.
- 4.
- 5.

Administrative Business:

- A.
- B.
- C.