



March 5, 2024

The Honorable Andrew Friedson, President

Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, MD 20850

Subject: Water and Sewer Category Change Requests, December 2023 Review Package

Dear Council President Friedson:

On February 29, 2024, the Montgomery County Planning Board reviewed the December 2023 group of eleven sewer category change requests for consistency with area master plan guidance. The Board received information from Planning and Executive staff on the cases below as shown in the County Executive's memo dated January 2, 2024. Planning staff's memo is attached to this letter.

The Planning Board's vote on the category change requests is described further below. However, after hearing from the public and staff during the Planning Board's meeting, members of the Board raised questions about some of the policies in the *Water and Sewer Plan* and how they impact certain applications. We wanted to share these thoughts with the Council for your consideration.

The first issue relates to properties that are in the Glen Hills Study Area. This area went through a special study in 2012 per recommendations in the 2002 *Potomac Subregion Master Plan*, which resulted in the policies now in the *Water and Sewer Plan* for that area. The Planning Board heard that there are instances of failing or potentially failing septic systems on several properties in this area which could impact public health, but category changes cannot be granted due to the existing *Water and Sewer Plan*. Alan Soukup from the Montgomery County Department of Environmental Protection (DEP) explained that a limited master plan amendment to the 2002 *Potomac Subregion Master Plan* was recommended as a result of the Glen Hills Area Special Study to comprehensively address the many requests for sewer service in this area. The Planning Board suggests it may be time to revisit this idea or develop an alternative solution to this issue. Mr. Soukup indicated that Montgomery County DEP would be happy to work with the Council to reevaluate the Potomac Peripheral Sewer Service policy at the very least.

The Board also noted a few cases where the policies may have been strictly applied to deny service, but the facts and circumstances of the cases might warrant some flexibility. One example is case [4]

below (22-TRV-20A: John and Andrea Gerold), where one of the properties that is part of the application is only separated from the planned sewer service envelope by a 20-foot former gas line right-of-way. This small strip of land, with no physical improvements to prevent a connection, and no development capacity, might not practically warrant denial of service, yet the Potomac Peripheral Sewer Service policy dictates this decision.

Another example was case [2] (WSSCCR 22-TRV-15A: Josh Cook), where the Potomac Peripheral Sewer Service policy only allows connections within public rights-of-way. In this case, it may have been possible for the owner to obtain an easement across an adjacent property to accommodate the sewer connection. Such a circumstance might warrant further review.

A third case is [7] below (WSSCCR 22-URC-01A: Paul Sarkides). The applicant proposed a 100-unit senior living facility, which is a much-needed housing option in the county, but the *Water and Sewer Plan* does not contain a “peripheral sewer policy” for properties outside the 2002 *Potomac Subregion Master Plan* area. Therefore, the request was denied despite the fact that the property is adjacent to the planned public sewer envelope at the rear of the property and confronts the planned public sewer service immediately across the street. Review of such an outcome would seem warranted.

Below are the Planning Board’s recommendations. The Board voted separately on each case as outlined below, with the Board’s vote shown in parentheses. These votes reflect support for two recommendations from Planning staff that do not match the County Executive’s recommendations and the recommendations are explained in more detail in the attached staff report.

- [1] WSSCCR 22-TRV-14A: Dmitry Krylov and Irina Mikhailenko**
Planning Board Recommendation (5-0 in favor of staff’s recommendation): Deny S-3, Maintain S-6

- [2] WSSCCR 22-TRV-15A: Josh Cook**
Planning Board Recommendation (3-0 in favor of staff’s recommendation, 2 abstentions)
Commissioners Pedeoem and Bartley abstained because they were uncomfortable denying the application based on concerns that such action may be putting public health at risk: Deny S-3, Maintain S-6

- [3] WSSCCR 22-TRV-17A: Honrato and Rosvida Nicodemus**
Planning Board Recommendation (5-0 in favor of staff’s recommendation): Approve S-3

- [4] WSSCCR 22-TRV-20A: John and Andrea Gerold**
Planning Board Recommendation (5-0 in favor of staff’s recommendation): Deny S-3, Maintain S-6

- [5] WSSCCR 23-TRV-04A: Adebawale Ajomale**
Planning Board Recommendation (5-0 in favor of staff’s recommendation): Deny S-3, Maintain S-6

[6] WSCCR 23-TRV-05A: Hurst, Ennis, Johnson and Blackman

Planning Board Recommendation [Recommendation differs from CE recommendation]

(5-0 in favor of staff's recommendation): Approve W-1 for Parcel P709; maintain restricted sewer category S-1 for Parcels P804 and N765; advance to unrestricted S-1 for Parcels P804 and N765 upon the Hearing Examiner's approval of a Conditional Use plan and the Planning Board's approval of a preliminary subdivision plan.

Planning staff notes an error in the attached staff report for case [6] (WSCCR 23-TRV-05A), staff states that the applicants intend to develop a 60-unit independent living facility on a single lot. The applicant clarified with staff that it is their intent to create 60 fee-simple lots for the townhouses. This fact does not change staff's recommendation based on the criteria for the Potomac Peripheral Sewer System Policy. The matter of density and lot configuration will be determined when the Conditional Use and Preliminary Subdivision Plans are reviewed by the Hearing Examiner and the Planning Board once the applications have been submitted.

[7] WSCCR 22-URC-01A: Paul Sarkides

Planning Board Recommendation (5-0 in favor of staff's recommendation): Deny S-3, Maintain S-6

[8] WSSCR 17-OLN-02A: Iglesia De Cristo Mi-El Maryland, Inc.

Planning Board Recommendation [Conditions differ from CE recommendation] (5-0 in favor of staff's recommendation): Maintain W-6 and S-6; advance to W-3 and S-3 upon the Planning Board's approval of a preliminary plan that:

- Maintains the proposed water and sewer main alignments as shown on the preliminary plan.
- Maintains an impervious area limitation in the Hawlings River watershed portion of the property of no more than 10 percent.
- Does not exceed a limit of impervious area established by the County Council within the Northwest Branch watershed portion of the property.

[9] WSCCR 22-TRV-05A: Michael and Denise Sinay

[10] WSCCR 22-TRV-06A: Nirmala Rao

[11] WSCCR 22-TRV-09A: William Reinhold

(The Planning Board voted on items [9], [10], and [11] as a group.)

Planning Board Recommendation (4-1 in favor of staff's recommendation)(Vice Chair Pedoeem voted against staff's recommendation because of potential public health concerns.): Deny S-3, Maintain S-6

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Thank you for the opportunity to make recommendations to the Public Hearing record. If you have any questions, please do not hesitate to contact Jamey Pratt at (301) 495-4588 or Jamey.Pratt@montgomeryplanning.org.

Sincerely,



Artie L. Harris

Chair

Attachment

AH:JP

cc: Keith Levchenko, Montgomery County Council
Alan Soukup, Montgomery County Department of Environmental Protection
Kimberly Young, M-NCPPC, Office of the General Counsel
Jason K. Sartori, Montgomery Planning
Jamey Pratt, Montgomery Planning

**PROPOSED CATEGORY MAP AMENDMENTS
MONTGOMERY COUNTY COMPREHENSIVE WATER SUPPLY AND
SEWERAGE SYSTEMS PLAN – DECEMBER 2023 GROUP
ELEVEN CASES**

The Planning Board is required by State law to make a Master Plan and *Water and Sewer Plan* conformance determination on each of the Water and/or Sewer Category Change Requests.

Completed: Feb. 22, 2024

MCPB
Item No. 7
February 29, 2024

2425 Reddie Drive
Floor 14
Wheaton, MD 20902

Montgomeryplanning.org

Planning Staff



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Patrick Butler, Chief, Upcounty Planning Division, Patrick.Butler@montgomeryplanning.org, 301-495-4561

LOCATION/ADDRESS

Eleven locations throughout the county

MASTER PLANS

2002 Potomac Subregion Master Plan

2004 Upper Rock Creek Master Plan

2005 Olney Master Plan

APPLICANT

December 2023 Water and Sewer Category Change Requests

ACCEPTANCE DATE

January 25, 2024

REVIEW BASIS

Section 9-506(a)(1-2)(ii)

Maryland Annotated Code, Environment

Summary

- The Planning Board is required by state law to make a master plan conformance determination for the eleven water and sewer category change requests included in the County Executive's report.
- The Planning Board's recommendation will be transmitted to the County Council for final action.
- The Planning staff recommendations for ten of the eleven cases is consistent with the Executive staff recommendations (Attachment A).
- The Planning staff recommendation for one case has been updated and is no longer consistent with Executive staff recommendations.

SECTION 1: SUMMARY

The Planning Board is required by state law to make a master plan conformance determination on each Water and Sewer Category Change Request (WSCCR). It is the responsibility of applicants to pay for any new water or sewer infrastructure required to make the requested connections.

The Planning Board's recommendations will be transmitted to the County Council for final action on the requests. For each case, information and maps of zoning, existing and proposed use, and recommendations from other agencies are shown in the attached report from the County Executive (Attachment A). Staff recommendations for all but one case are consistent with the County Executive's recommendation. Planning staff's recommendation for 23-TRV-05A (item 6: Hurst, Ennis, Johnson and Blackman), differs from the recommendation of the County Executive.

The County Council's Public Hearing is scheduled for March 5, 2024. The Planning Board's recommendations will be submitted to the County Council as part of the public record.

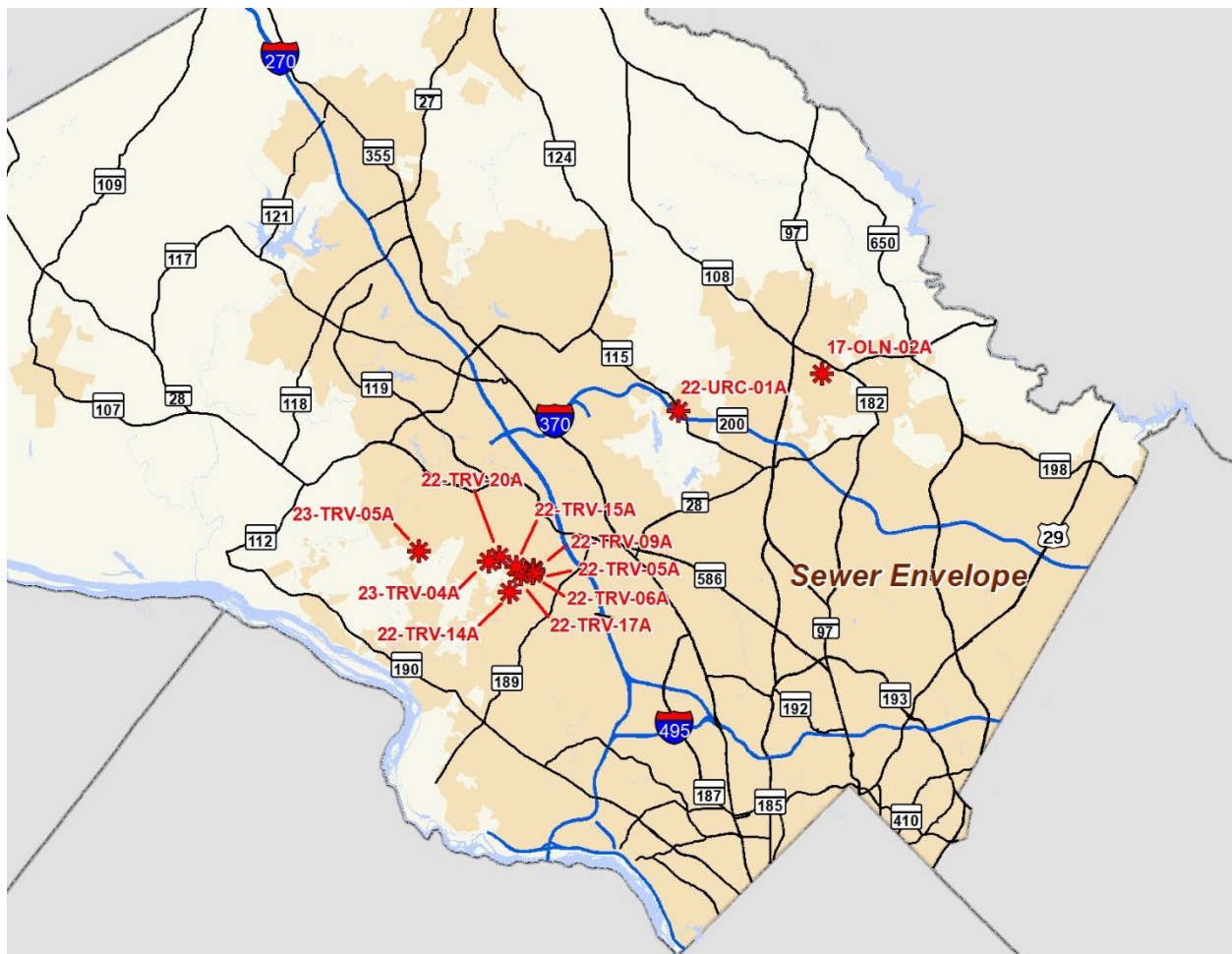


Figure 1. Map showing location of category change requests

SECTION 2: RECOMMENDATIONS

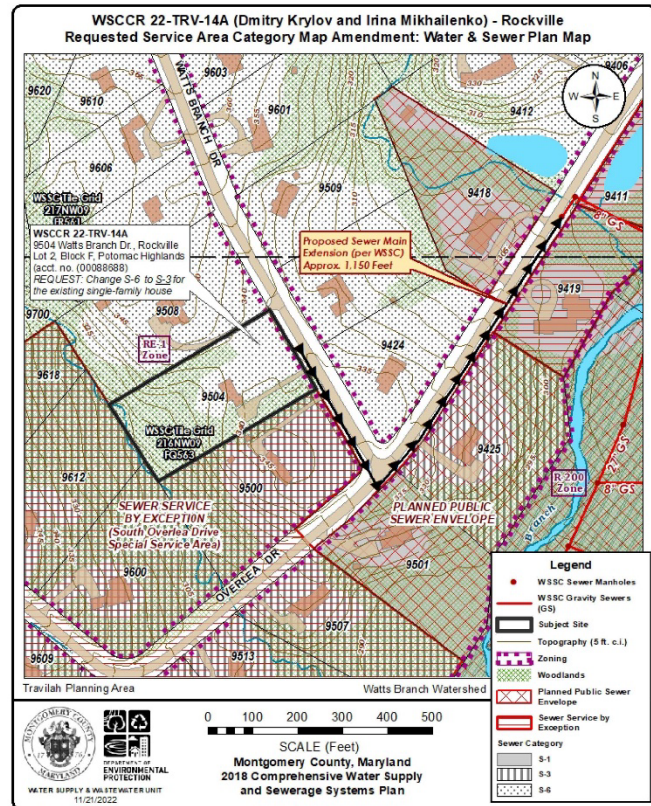
[1] WSCCR 22-TRV-14A: DMITRY KRYLOV AND IRINA MIKHAILENKO

The applicant has requested a sewer category change from S-6 to S-3 to allow for public sewer service for an existing single-family house. The address is 9504 Watts Branch Drive in Rockville and the property is 1.87 acres in the RE-1 zone. The property is within the 2002 *Potomac Subregion Master Plan* area and is outside the planned public sewer envelope. The connection requires a 1,050-foot sewer main extension.

The property is located in the Glen Hills Study Area of the 2002 *Potomac Subregion Master Plan*. The master plan recommended that this area be the subject of a study to determine how this existing neighborhood would receive sewer service extensions. The resulting policy in the *Water and Sewer Plan* limits public service in Glen Hills and outlines conditions that must be satisfied before public service is provided:

- Properties in need of relief from public health problems resulting from documented septic system failures;
- Properties included within a specifically designated special sewer service area;
- Properties that abut existing or planned sewer mains and that satisfy the requirements of the “abutting mains” policy;
- Properties at the edge of the 2002 *Potomac Master Plan* planned public sewer envelope that abut and/or confront properties within the envelope, consistent with the Potomac Peripheral Sewer Service Policy; or
- Properties within the Glenn Hills study area and within the Piney Branch subwatershed that satisfy the requirements for community sewer service under the Piney Branch restricted sewer service policy.

The property does not have a documented septic system failure, is not within a specifically designated special sewer service area, does not abut an existing or planned sewer main, and is not within the Piney Branch watershed.



Description: Map showing the location of WSCCR 22-TRV-14A with surrounding sewer service area categories, the planned public sewer envelope, existing public sewer mains, and a sewer extension concept.

Figure 2. Page 9 from County Executive's report

The property abuts three properties that have been approved for public sewer service as a result of the South Overlea Drive Septic Survey for the relief of a public health concern. These three properties will eventually be served by a sewer main along Overlea Drive, but the approval of the sewer category change for these abutting properties did not extend the planned sewer envelope to include them. To qualify for public sewer service under the Potomac Peripheral Sewer Service Policy, a property must abut or confront another property within the planned sewer service envelope. Because this property does not abut the planned sewer service envelope, it does not qualify for consideration of public sewer service approval under the Potomac Peripheral Sewer Service Policy.

This property does not meet the conditions outlined for the provision of public sewer service.

County Executive's Recommendation: Deny S-3; maintain S-6

Planning Staff Recommendation: Deny S-3; maintain S-6

[2] WSCCR 22-TRV-15A: JOSH COOK

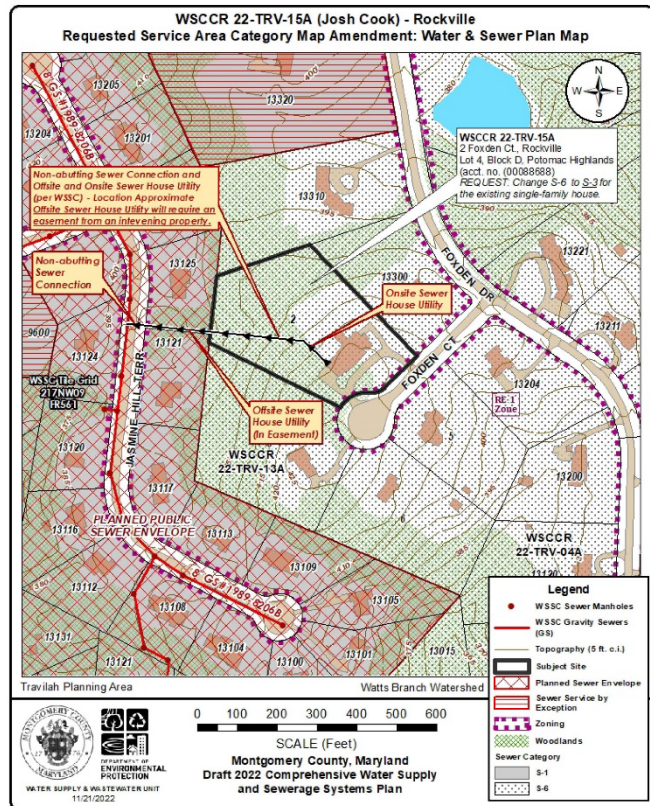
The applicant has requested a sewer category change from S-6 to S-3 to allow for public sewer service for an existing single-family house. The address is 2 Foxden Court in Rockville and the property is 1.53 acres in the RE-1 zone. The property is within the 2002 *Potomac Subregion Master Plan* area. It is outside the planned public sewer envelope.

Providing public sewer service to this property will require a non-abutting sewer service connection through one or more private properties at the rear of the property, and therefore also require a private easement from at least one existing lot along Jasmine Hill Terrace. Trees on these lots may be affected.

The property is adjacent to the Potomac sewer envelope as shown in the 2002 *Potomac Subregion Master Plan* along the rear property boundary. The Potomac Peripheral Sewer Service Policy is intended for “properties which already abut existing or proposed mains and on properties which can be serviced by sewer extension within public rights-of-way”. Since there is no abutting sewer infrastructure or infrastructure within public rights-of-way in close proximity to this lot, sewer service to this property is not supported under the Potomac Peripheral Sewer Service Policy.

County Executive’s Recommendation: Deny S-3; maintain S-6

Planning Staff Recommendation: Deny S-3; maintain S-6



Description: Map showing the location of WSCCR 22-TRV-15A with respect to sewer service area categories, the planned public sewer envelope and showing a sewer main extension identified by WSSC-Water.

Figure 3. Page 13 from County Executive’s report

[3] WSCCR 22-TRV-17A: HONRATO AND ROSVIDA NICODEMUS

The applicant has requested a sewer category change from S-6 to S-3 to allow for public sewer service for an existing single-family house. The address is 13110 Foxden Drive in Rockville and the property is 2.38 acres in the RE-1 zone. It is within the 2002 *Potomac Subregion Master Plan* area. The property is outside the planned public sewer envelope.

Providing public sewer service to this property requires a 600-foot sewer main extension to connect to an existing main along Overlea Drive.

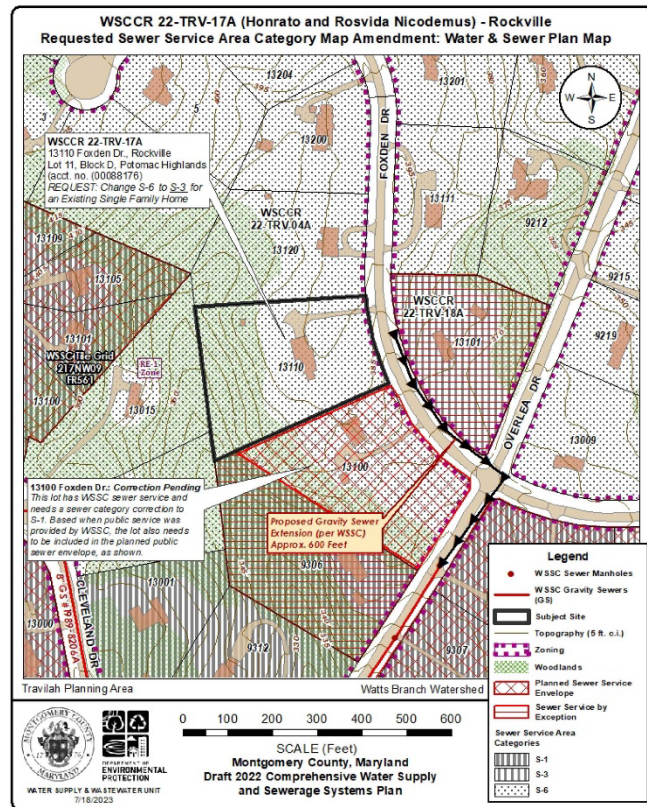
The property is in the Glen Hills Study Area of the 2002 *Potomac Subregion Master Plan*. The master plan recommended that this area be the subject of a study to determine how this existing neighborhood would receive sewer service extensions. This policy limits public service in Glen Hills and outlines conditions that must be satisfied before public service is provided.

In prior comments to the County Executive regarding this case, Planning staff was not aware that the adjacent lot at 13100 Foxden Drive was erroneously shown as being outside the planned sewer service envelope; there is a pending correction for this abutting property to show that it is included in the envelope.

Given that the property abuts the sewer service envelope and can be served by an extension within existing public road rights-of-way, the property qualifies for public sewer service under the Potomac Peripheral Sewer Service Policy.

County Executive's Recommendation: Approve S-3

Planning Staff Recommendation: Approve S-3



Description: Sewer Category Map showing the location of WSCCR 22-TRV-17A with respect to the planned public sewer envelope and a proposed 600-foot sewer extension.

Figure 4. Page 16 from County Executive's report

[4] WSCCR 22-TRV-20A: JOHN AND ANDREA GEROLD

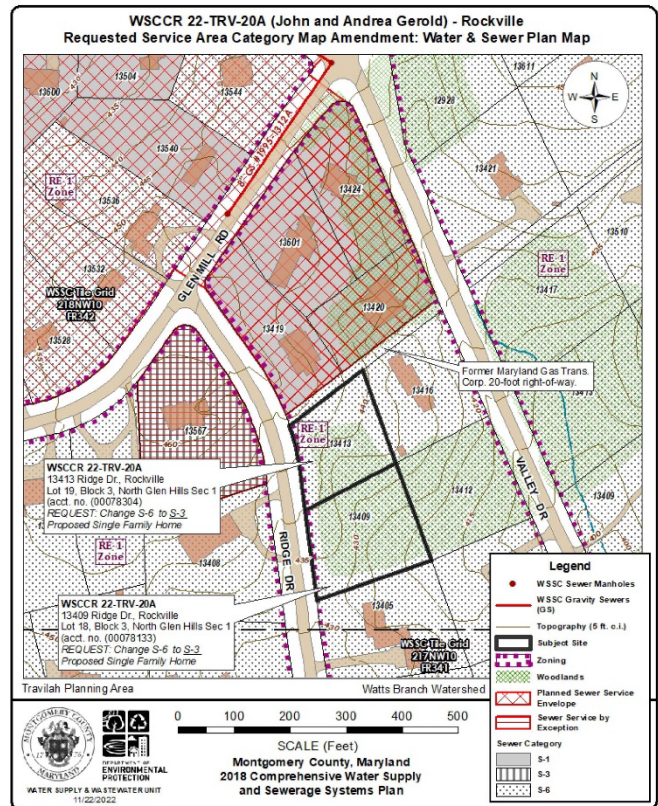
The applicant has requested a sewer category change from S-6 to S-3 to allow for public sewer service for two adjacent, unimproved lots. The addresses are 13409 and 13413 Ridge Drive in Rockville and the properties total 1.40 acres in the RE-1 zone. They are within the 2002 *Potomac Subregion Master Plan* area. The properties are outside the planned public sewer envelope.

These properties are located in the Glen Hills Study Area of the 2002 *Potomac Subregion Master Plan*. The *Water and Sewer Plan* limits public service in Glen Hills and outlines conditions that must be satisfied before public service is provided. The northerly property, 13413 Ridge Drive, is close to but does not directly abut the planned sewer service envelope, while the southerly property, 13409 Ridge Drive, is further removed from the planned envelope. These properties do not meet the conditions outlined in the *Water and Sewer Plan* for the Glen Hills Study Area.

To qualify for public sewer service under the Potomac Peripheral Sewer Service Policy, a property must abut or confront another property within the planned sewer service envelope. Because these properties do not abut the planned sewer service envelope, they do not qualify for consideration of public sewer service approval under the Potomac Peripheral Sewer Service Policy.

County Executive’s Recommendation: Deny S-3; maintain S-6

Planning Staff Recommendation: Deny S-3; maintain S-6



Description: A map showing existing sewer service area categories for WSCCR 22-TRV-20A, along with existing nearby sewer mains.

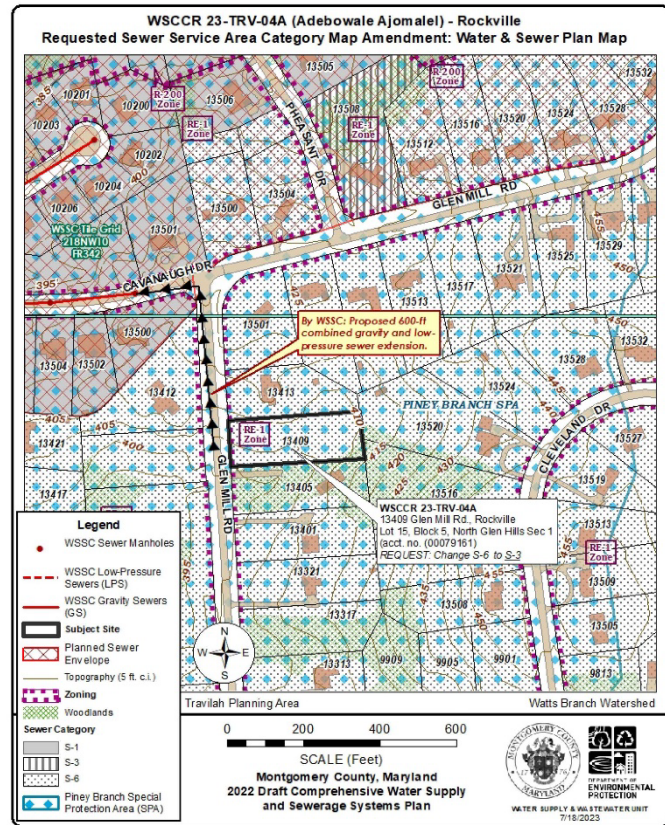
Figure 5. Page 19 from County Executive’s report

[5] WSCCR 23-TRV-04A: ADEBOWALE AJOMALE

The applicant has requested a sewer category change from S-6 to S-3 to allow for public sewer service for an unimproved lot in the North Glen Hills Section 1 subdivision. The address is 13409 Glen Mill Road in Rockville and the property is 1.01 acres in the RE-1 zone. It is within the 2002 *Potomac Subregion Master Plan* area. The property is outside the planned public sewer envelope.

Providing public sewer service to this property requires a 600-foot sewer main extension from an existing main along Cavanaugh Drive.

This property is within the Glen Hills Sewer Service Policy Area and the Piney Branch Special Protection Area. The property does not meet any of the five conditions required for consideration of sewer service under the Glen Hills Sewer Service Policy including the additional conditions specified for the Piney Branch Restricted Community Sewer Service Area.



Description: Sewer Category Map showing the location of WSCCR 23-TRV-04A with respect to the planned public sewer envelope, the Piney Branch SPA, and a proposed 600-foot sewer extension.

Figure 6. Page 23 from County Executive's report

To qualify for public sewer service under the Potomac Peripheral Sewer Service Policy, a property must abut or confront another property within the planned sewer service envelope. Because this property does not abut the planned sewer service envelope, it does not qualify for consideration of public sewer service approval under the Potomac Peripheral Sewer Service Policy.

County Executive's Recommendation: Deny S-3; maintain S-6

Planning Staff Recommendation: Deny S-3; maintain S-6

[6] WSCCR 23-TRV-05A: HURST, ENNIS, JOHNSON AND BLACKMAN

The applicant has requested a water category change from W-6 to W-1 on Parcel P709 and a sewer category change from S-1 restricted to S-1 unrestricted on Parcels P804 and N765 to allow for public water and sewer service to 60 townhouses proposed for the combined properties (see Figure 8 below for parcel layout.) Parcel P709 is currently in sewer category S-1 and is within the planned sewer envelope; Parcels P804 and N765 are in water category W-1. The addresses are 13741 and 13751 Travilah Road in Rockville and the properties total 11.09 acres in the RE-2 zone. They are within the 2002 *Potomac Subregion Master Plan* area. Parcels P804 and N765 are not within the planned sewer envelope.

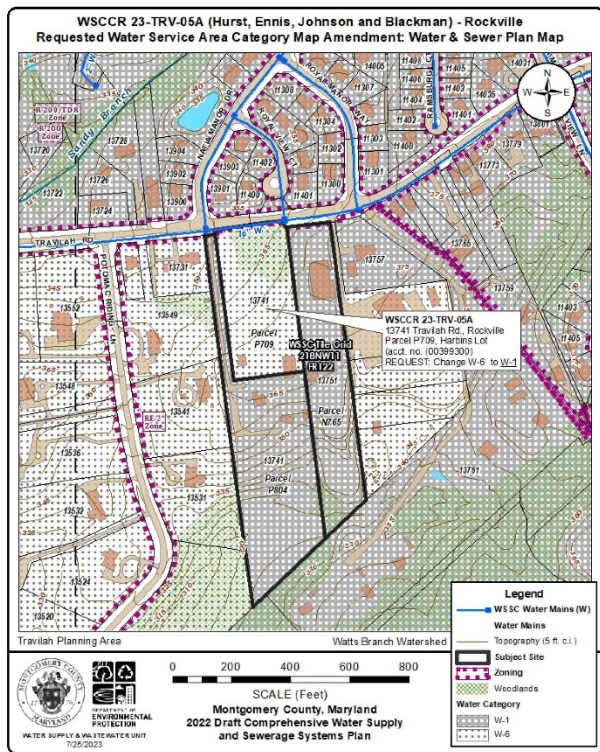
COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
 County Executive's December 2023 Transmittal Packet
 FY 2022 (Part 2) & FY 2023 (Part 1) Category Change Requests

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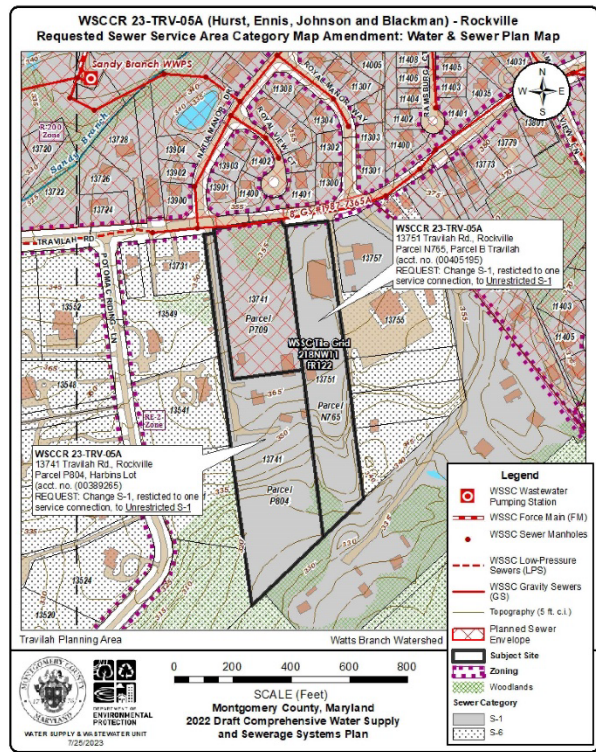
COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
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FY 2022 (Part 2) & FY 2023 (Part 1) Category Change Requests

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Description: Water service area category map for WSCCR 23-TRV-05A, showing water categories and existing water main infrastructure.



Description: Sewer service area category map for WSCCR 23-TRV-05A, showing sewer categories and existing sewer main infrastructure.

Figure 7. Pages 29 and 30 from County Executive's report

From west to east, parcel P804 is the Hurst and Ennis property, parcel P709 is the Blackman property, and parcel N765 (also "Parcel B" on Plat 9926) is the Johnson property. The proposed townhouses are for an independent living facility for seniors on a single lot, which will require conditional use and subdivision approval. The applicant has submitted conditional use application CU202310 for the project. The proposal will also require approval of a preliminary plan of subdivision.



Figure 8. On the left is the parcel layout for the Hurst and Ennis (P804), Blackman (P709), and Johnson (N765) properties; on the right is the utility plan from conditional use application CU202310 showing the proposed townhouse configuration on the combined properties.



Figure 9. Proposed water (blue) and sewer (red) connections from applicant's utility plan

Parcel N765 is part of the “Johnson property” as discussed on pages 85-87 in the master plan (see Figure 10). The Johnson property comprises two parcels: a 3.45-acre rectangular property (N765) and a 10.38-acre irregularly shaped parcel that is not part of this category change request. The master plan analyzed this property due to the owner’s request to rezone the property from RE-2 to R-200 or RE-2/TDR-2, which would change the density from one dwelling unit per two acres to two dwelling units per one acre, more or less, resulting in about four times the density for the parts of the property in the RE-2 zone.

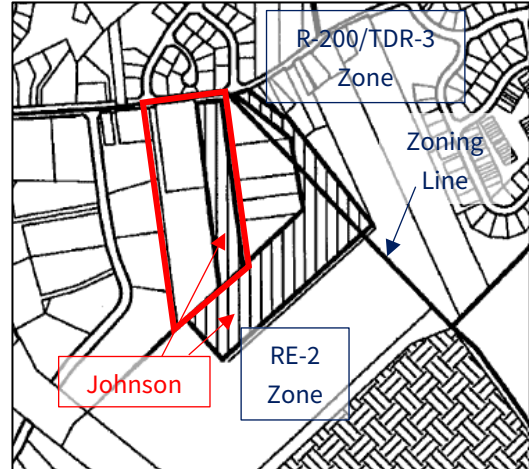


Figure 10. Detail from Master Plan Map 19 (p. 86). The three subject properties are in red. The two Johnson properties discussed in the master plan are marked by vertical striping.

From the master plan:

The Johnson property has existing community water and sewer service for one hook-up. The property is adjacent to the proposed sewer service boundary but is not included within the proposed sewer envelope. Much of the site is currently used for business operations that are allowed by several special exceptions. The site contains several buildings, large dump trucks, large gravel surfaces, trailers, storage containers, as well as abandoned vehicles, tires, and old equipment.

Residential land use would be more compatible with the surrounding area than the current uses. Rezoning of this property could substantially upgrade the area, enable assemblage of unrecorded parcels, and eliminate commercial special exceptions and nonconforming uses in the area.

However, while residential development is encouraged, increasing the zoning density for this site would be contrary to several of the stated policies in the Public Hearing Draft (sic) Potomac Subregion Master Plan. For example, the County's water and sewer policies generally allow the provision of sewer service only to those areas zoned for moderate to dense development. The Plan establishes a policy that generally recommends against the provision of community sewer service to low-density areas, such as those with RE-2 zoning.

It is not recommend[ed] that community sewer service be extended outside of the proposed sewer envelope. While the Plan does support limited approvals for sewer service along its currently established edge, the focus of any such limited service is on properties that can be served by sewer extensions within public rights-of-way. The Johnson property could not be served by sewer extensions within the public right-of-way.

Recommendations

- Confirm the existing zoning of RE-2 that covers 90 percent of the site.

- Correct a zoning anomaly (i.e., the split zoning) that exists on the site by rezoning the R-200\TDR-3 portion (approximately 10 percent) of the property to RE-2.

The other two properties that are part of this request are not specifically discussed in the master plan, but the master plan retained the RE-2 zone for these properties.

The final paragraph of the master plan excerpt above states that the Johnson properties could not be served by sewer extensions within the right-of-way. This assumed gravity service would not be possible due to topography. However, the applicant intends to regrade the site to allow gravity service, reflected in the proposed connections shown in Figure 9 above. Furthermore, the statement from the master plan applies more to the larger Johnson property, the majority of which is downhill from a public right-of-way, whereas most of the smaller Johnson property is at a higher elevation than abutting Travilah Road.



Figure 11. Detail from Foldout Map D from the Master Plan with property owner names added. Areas north of the red line are within the Council-approved planned sewer service envelope, while properties in orange had existing sewer service in 2002.

The master plan includes both parcels of the Johnson property within the area with existing sewer service (see Figure 11).

According to the master plan, all three of the subject properties are outside the planned sewer service envelope and are considered among those properties at the edge of the envelope that cannot be served by sewer extensions within the public right-of-way. However, the applicant has proposed site grading which would allow for the use of sewer extensions within Travilah Road.

Another important detail for the sewer category change request is the location of the edge of the sewer envelope. According to the County Executive’s report, “Subsequent work by DEP showed that Parcel P709 was approved for public sewer service prior to the 2002 master plan, and it should be then included in the planned sewer envelope.” (p. 26 of the Executive’s report). See Figure 12 for a revised version of the sewer envelope exhibit from the master plan.

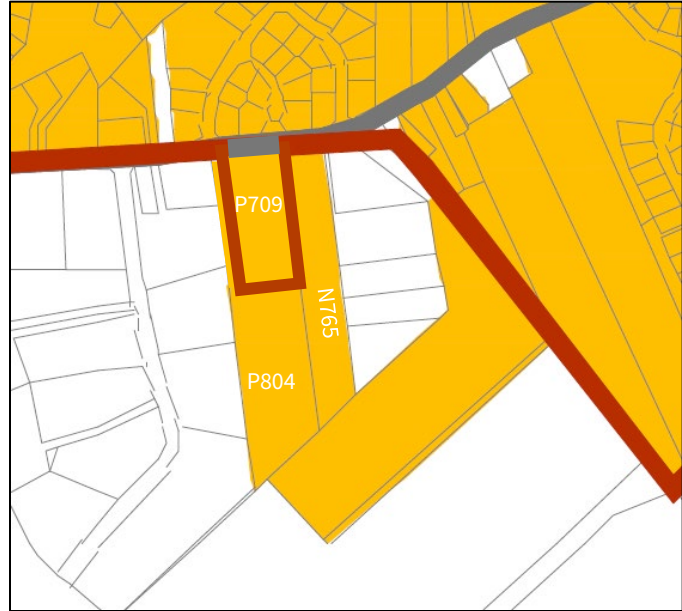


Figure 12. Planning-staff revised planned sewer envelope per DEP's recent delineation

The master plan excerpt above refers to the sewer policy discussed earlier in the master plan. The master plan and the *Water and Sewer Plan* generally discourage providing sewer service to properties zoned RE-1 or RE-2, but recognize that limited community sewer service may be allowed to such properties on a very limited basis if a property is at the periphery of the proposed sewer service envelope. The master plan stresses that “the provision of community sewer service can damage the environment and water resources by facilitating development to the maximum zoning density” (p. 21). The master plan emphasizes the general county policy of only providing sewer service to those areas zoned for moderate to dense development (i.e. more dense than one dwelling unit per 20,000 square feet). Low-density zoning, such as RE-1 and RE-2, is used to protect the natural environment by minimizing development impacts, and septic suitability sometimes results in even lower densities than would otherwise be allowed in the zone. As stated in the master plan:

Extending sewer lines into these areas has the potential to allow development density at or near the zoned maximum, to disrupt the environment and to provide rationale for further extensions and greater density. One of the greatest challenges facing the Potomac Subregion and this Master Plan has been to develop compatible land use and sewer service recommendations which protect the Subregion’s environmental quality. (p. 22)

But the master plan does provide some limited exceptions:

“Although this Master Plan generally recommends against the continued provision of community sewer service for the low-density (RE-1 and RE-2) areas, it does support limited approvals for community sewer service for the low-density areas within the envelope and along its currently-established edge” (p. 23).

The *Water and Sewer Plan* contains Exceptional Service Policies and Recommendations for Specific Service Areas. Recommendations in the 2002 *Potomac Subregion Master Plan* led to the delineation of the specific service area “Potomac Area RE-1 and RE-2-Zoned Properties,” more commonly known as the Potomac Peripheral Sewer Service Policy and mentioned in several of the cases in this report. To qualify for sewer service in this area:

- The property under consideration must abut or confront another property within the master plan’s designated sewer service envelope.
- The extension of community sewer service is intended to follow existing public rights-of-way and must not affect streams, stream valley buffers, or other environmentally sensitive areas.

The proposed conditional use plan includes only properties which abut the designated sewer service envelope, and the extension of community sewer service will follow an existing right-of-way (Travilah Road), but the extension of community sewer service must not affect the environmental features listed above (streams, stream valley buffers, and other environmentally sensitive areas).

The conditions which led to the master plan’s policy recommendations which in turn led to the Potomac Peripheral Sewer Service Policy still exist today. As stated in the master plan, “the provision of community sewer service can damage the environment and water resources by facilitating development to the maximum zoning density” (p. 21). The example of environmental damage given in the master plan is the extension of sewer lines along stream valleys, which disturbs habitat, threatens species survival, and adversely affects wetlands. Furthermore, deteriorating sewer lines can result in sewage leaks, further degrading the ecosystem. Therefore, the master plan states, “Main extensions that would disrupt streams and their undisturbed buffer areas should be avoided” (p. 23).

In earlier comments provided to DEP staff for this case, Planning staff recommended against granting the requested change based largely on the notion that the RE-2 zone is a low-density zone that exists in part to protect environmental quality by preventing sprawling, higher density development. The master plan maintained and reaffirmed low-density residential zoning for most of the Subregion to protect the area’s natural environment. The master plan specifically recommended against a zoning



Figure 13. 2023 aerial showing the current state of the three properties

change to R-200 or RE-2/TDR-2 for the Johnson property and “corrected a zoning anomaly” on approximately ten percent of the property that had been zoned R-200/TDR by rezoning that portion to RE-2. Under the RE-2 zone, a maximum of five dwelling units could be accommodated on the 11-acre site, but the sewer service policies would currently only allow for one hookup for each of the three parcels. The 60-unit townhouse development proposed by the applicant would allow for twelve times the number of dwelling units than the current zone would allow, and twenty times the number of dwelling units than would be allowed under the *Water and Sewer Plan* for expected low-density residential development.

The County Executive’s report raises concerns about the applicability of the Potomac Peripheral Sewer Service Policy for this site. The report indicates that this would be the largest project addressed by the policy in terms of both property size and number of units. However, the policy only requires that a property abut or confront a property within the existing sewer service envelope, that it be served by extensions that follow existing public rights-of-way, and that it does not affect streams, stream valley buffers, or other environmentally sensitive areas. The policy does not contain language regarding the size of the proposed development, although the *Water and Sewer Plan* consistently refers to the RE-1 and RE-2 zones as “low density.”

The policy itself is an enactment of recommendations in the 2002 *Potomac Subregion Master Plan*, which made the recommendations in response to an earlier policy that had led to a sewer envelope “established by demand rather than by plan,” with “[v]oids within the envelope and irregular boundaries along its perimeter” (p. 23). The language in the policy is based on the following text in the master plan:

The focus of this limited service and expansion should be on properties which already abut existing or proposed mains and on properties which can be served by sewer extensions within public rights-of-way. Main extensions that would disrupt streams and their undisturbed buffer areas should be avoided. (p. 23)

Planning staff provided prior comments on this case to Montgomery County DEP indicating that the master plan generally recommends against the provision of community sewer service for RE-1 and RE-2 zone properties such as those that are part of this application. But upon further review and consideration, it appears that the properties are included in those covered by the Potomac Peripheral Sewer Service Policy and meet the criteria established therein (based on recommendations contained in the master plan) and that therefore, public sewer service is appropriate for the site as long as environmental degradation does not occur. Whether the use is appropriate for the site is a question that should be determined as part of the Conditional Use application.

The Master Plan does not provide guidance for the provision of water service other than to recommend that any such service be consistent with the county’s *Water and Sewer Plan*. Two of the properties are already served by public water. The third property, Parcel P709, qualifies for a public

water connection under the Community Service for Properties Abutting Community System Mains policy. The provision of public water service to the site is consistent with the *Water and Sewer Plan*.

County Executive's Recommendation: Approve W-1 for Parcel P709; deny requested S-1 sewer category restriction changes for Parcels P804 and N765; maintain existing restricted sewer category S-1 for Parcels P804 and N765.

Planning Staff Recommendation: Approve W-1 for Parcel P709; maintain restricted sewer category S-1 for Parcels P804 and N765; advance to unrestricted S-1 for Parcels P804 and N765 upon the Hearing Examiner's approval of a Conditional Use plan and the Planning Board's approval of a preliminary subdivision plan.

[7] WSCCR 22-URC-01A: PAUL SARKIDES

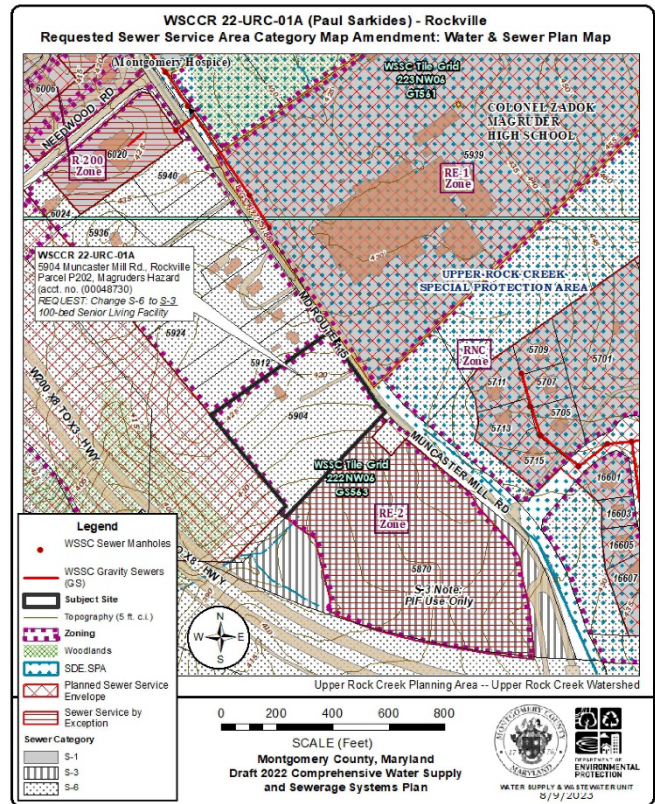
The applicant has requested a sewer category change from S-6 to S-3 to allow for public sewer service for a proposed 100-unit senior living project that would replace an existing single-family house. The address is 5904 Muncaster Mill Road in Rockville and the property is 4.37 acres in the RE-2 zone. It is within the 2004 *Upper Rock Creek Master Plan* area. The property is outside the planned public sewer envelope. It is not within the Upper Rock Creek Special Protection Area. The property requires a 1,000-foot main extension to the north along Muncaster Mill Road.

The primary goals of the master plan are to maintain the existing low-density residential character of the watershed as remaining large properties undergo development and to preserve sensitive natural resources by expanding and enhancing the watershed’s open space system. The master plan focuses on residential development and therefore does not directly address institutional development.

The Housing chapter of the master plan recommends a balance between the countywide policies for encouraging the broadest possible range of housing choices for the full range of residents’ ages and incomes with equally important policies for preservation of a low-density housing resource and the protection of sensitive resources. The Housing chapter recognizes that adequate housing for the elderly is an important element of the overall goal.

The master plan recommends that areas zoned for low-density development (RE-1 and RE-2) be excluded from further extension of community service. Given the property’s zone, its distance from existing infrastructure, master plan recommendations, and *Water and Sewer Plan* policies, there does not appear to be an established policy that would allow public sewer service to the property.

Note that the Montgomery County Department of Environmental Protection also considered granting public sewer service under the “community service for commercial land uses” special service policy, but the Maryland Department of the Environment denied the County Council’s request to add this



Description: A map showing existing sewer service area categories for WSCCR 22-URC-01A, along with existing sewer service areas and sewer mains for WSSC-Water. The extent of the Upper Rock Creek special protection area (SPA) is also shown.

Figure 14. Page 36 from County Executive’s report

policy to the *Water and Sewer Plan* as part of the 2022 update, and therefore cannot be considered for this property.

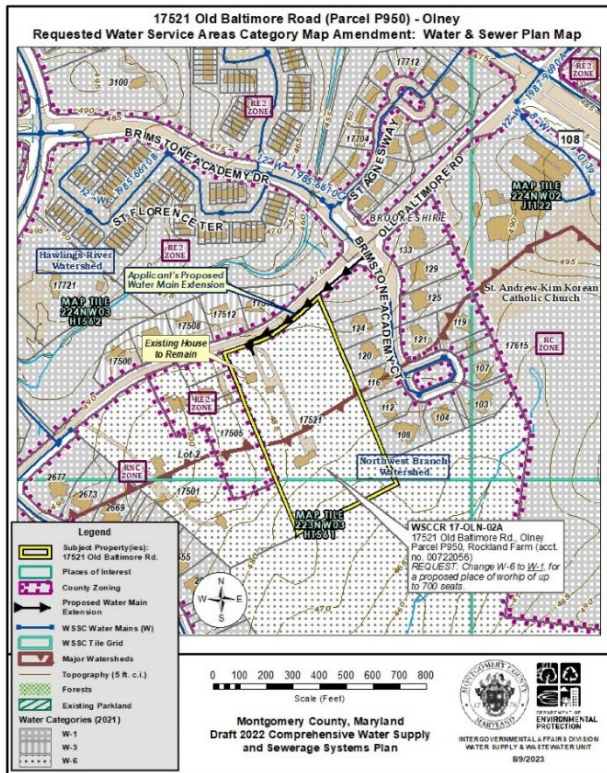
County Executive's Recommendation: Deny S-3; maintain S-6

Planning Staff Recommendation: Deny S-3; maintain S-6

[8] WSSCR 17-OLN-02A: IGLESIA DE CRISTO MI-EL MARYLAND, INC.

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
 County Executive's December 2023 Transmittal Packet
 FY 2022 (Part 2) & FY 2023 (Part 1) Category Change Requests

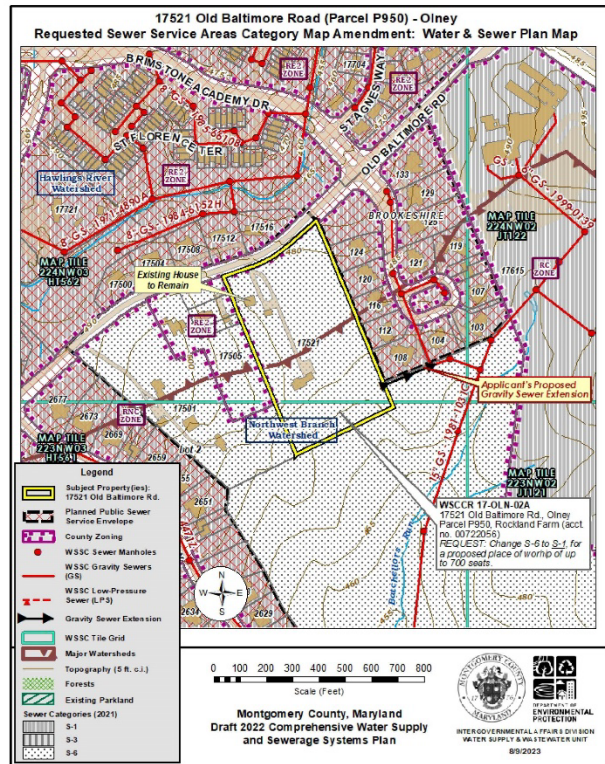
Page 43



Description: A map showing existing water service area categories for WSSCR 17-OLN-02A along with existing water mains and a proposed water main extension.

COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN AMENDMENTS
 County Executive's December 2023 Transmittal Packet
 FY 2022 (Part 2) & FY 2023 (Part 1) Category Change Requests

Page 44



Description: A map showing existing sewer service area categories for WSSCR 17-OLN-02A along with existing sewer mains and a proposed sewer main extension.

Figure 15. Pages 43 and 44 from County Executive's report

The applicant has requested water and sewer category changes from W-6 and S-6 to W-1 and S-1 to allow for public water and sewer service for a proposed place of worship with a capacity of up to 700 seats. The applicant intends to retain an existing house on the property as a parsonage. The address is 17521 Old Baltimore Road in Olney, and the property is 7.21 acres in the RNC zone. It is within the 2005 *Olney Master Plan* area. The site does not have direct access to either public water or sewer service.

In the 2005 *Olney Master Plan*, the property was identified as the "Weidner property," which was grouped with two adjoining properties in the master plan's analysis (see Figure 16). The master plan recommended that the two smaller properties in the trio be served by public water but not be served by public sewer unless they were combined with the much larger third

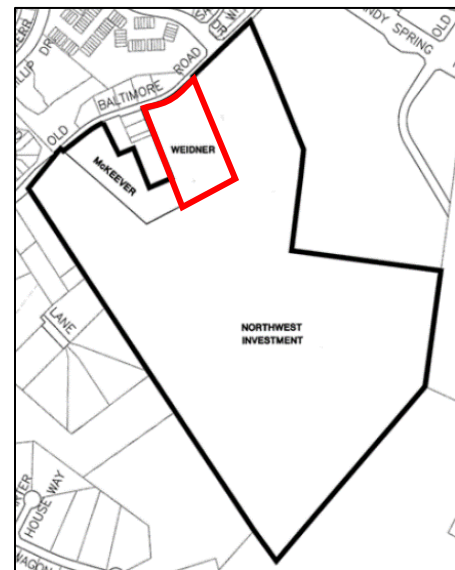


Figure 16. Northwest Investment, McKeever, and Weidner Properties illustration from the master plan (p. 36)

property in the group, known then as the Northwest Investment property. The Northwest Investment property subsequently developed without including either of the smaller properties, so the master plan does not directly support the provision of public sewer service on the property. If it had, this likely would have been a simpler administrative case to review.

The provision of public sewer service is therefore considered under the *Water and Sewer Plan's* Private Institutional Facilities (PIF) policy (explained below).

This category change request was previously deferred by the County Council under CR 18-1272 on October 30, 2018, when reviewed as part of the August 2018 category change request packet. The deferral was a result of changes in the 2018 update of the *Water and Sewer Plan* requiring consideration of a concept plan by the Development Review Committee (DRC) when requesting a category change under the PIF policy.

Preliminary Plan of subdivision 120220040, accepted for review by Montgomery Planning on May 3, 2023, serves the purpose of the required concept plan. An eight-month extension request for this subdivision plan was granted by the Planning Board on September 28, 2023, establishing a Planning Board date no later than May 31, 2024, pending approval of a category change to allow for the use of public water and sewer on the property.

The applicant's proposed subdivision plan shows a water main extension along Old Baltimore Road and a sewer main extension from the outfall sewer main at the rear of the adjacent Olney Estates subdivision on Brimstone Academy Court (see Figure 17).

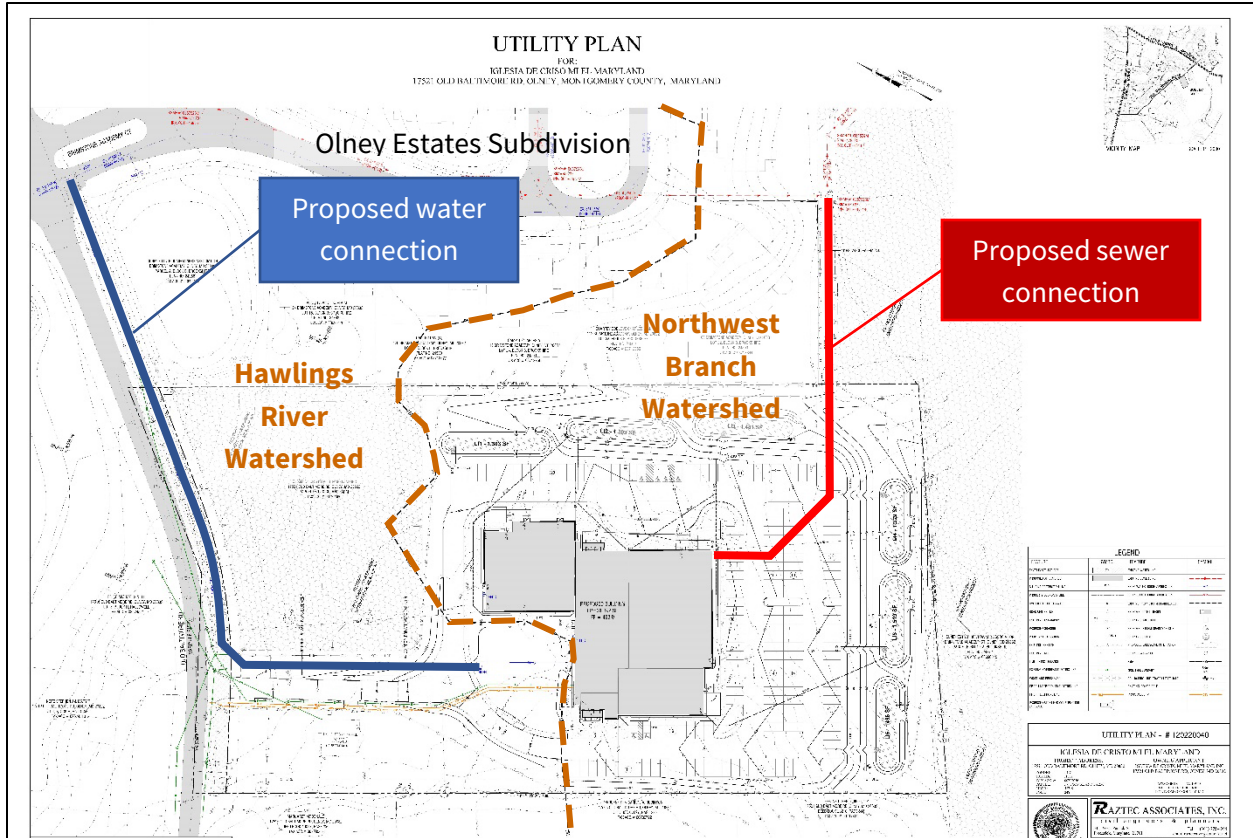


Figure 17. Enhanced color-coded utility plan submitted as part of preliminary plan 120220040. The dashed dark orange line indicates the watershed divide: to the left is in the Hawlings River watershed, part of the Patuxent PMA; to the right is in the Northwest Branch watershed.

According to the County Executive, “[t]he primary concern for the Council has been impervious area proposed by the plan” (p. 38) The preliminary plan shows a 35.23 percent imperviousness level across the entire site (110,078 SF total imperviousness across a lot area of 312,462 SF). The front part of the property, along Old Baltimore Road, is within the Hawlings River watershed, part of the Patuxent Primary Management Area (PMA) (2.82 acres), while the back part of the property, where the church building and parking lot are proposed, is in the Northwest Branch watershed (4.35 acres).

The part of the property within the Patuxent PMA is in what is known as the “transition area” of the PMA, which is the area within the PMA but outside a designated stream buffer. According to Montgomery Planning’s *Environmental Guidelines*, new development within the transition area within the PMA should not exceed 10 percent. There is no set imperviousness cap in the Northwest Branch watershed. The County Executive’s report indicates that the preliminary plan proposes 9.79 percent imperviousness within the PMA and 47.12 percent imperviousness on the part of the property in the Northwest Branch watershed.

As stated above, the request is being considered under the *Water and Sewer Plan’s* Private Institutional Facilities (PIF) policy. This policy applies to buildings constructed for certain tax-exempt

entities, such as churches, which wish to locate on properties not currently recommended for public sewer service. As explained in the *Water and Sewer Plan* (Section II.G.4):

The PIF policy acts to grant opportunities for the provision of community water and sewer service for non-profit institutions (that can include religious institutions) that are not otherwise afforded to residential and commercial development in areas located outside planned public service envelopes.

As mentioned earlier, this case was initially deferred pending review of a concept plan, which was eventually submitted as a preliminary plan of subdivision application. The County Council typically approves category change requests under the PIF policy with the understanding that the final development will be consistent with the concept plan that was reviewed. According to the County Executive's report, the County Council has "significant concerns" about the amount of imperviousness proposed for the project; Planning staff shares these concerns. In cases where the Council supports the requested category change, the approval is typically conditioned on A) the Planning Board's approval of a preliminary subdivision plan that the Board finds to be in conformance with the local area master plan; or B) on the Board's approval of a preliminary subdivision plan which conforms substantially with the concept plan reviewed by the Council.

For new or relocating PIF uses on sites that require new water and/or sewer main extensions, the extensions cannot make community service available to additional properties that would otherwise be ineligible for community service. The proposed 300-foot water main extension along Old Baltimore Road only abuts properties that have already been approved for public water service. The proposed 200-foot sewer main extension through an existing easement would also not make community service available to additional properties.

The County Executive had concerns with the 47 percent imperviousness proposed within the Northwest Branch watershed. This exceeds levels the County Council has previously found acceptable when approving PIF cases. The County Council has specified impervious area limits in several cases that are cited in the County Executive's report. Two of these cases are within the Northwest Branch watershed, with impervious area limited to 24 and 25 percent, and a third case in the Little Seneca Creek watershed with a maximum imperviousness of 20 percent. The County Executive also expressed concerns about the cumulative effect of greater imperviousness allowances from institutional uses when compared to residential development in low-density zones.

The subject property is within the Batchellors Forest tributary of the Northwest Branch. The master plan recommends protecting "significant green infrastructure," such as stream buffers and existing forest, within conservation easements and through cluster development, and the plan recommends against further extensions of sewer lines along the Batchellors Forest tributary. The master plan indicates that water quality in the Batchellors Forest tributary was "fair" or on the low side of "good" at the time, similar to many other subwatersheds in suburban and rural areas of the county. The master plan states:

While the amount of change in imperviousness could be significant between now and build-out, the stream quality should easily stay within the fair range given the relatively low build-out imperviousness. (p. 78)

And continues:

While some benefits would result from application of a Special Protection Area with an 8% imperviousness cap, it would not significantly reduce the potential imperviousness in this subwatershed nor likely affect the overall stream conditions. An SPA or overlay zone with an imperviousness cap is not recommended for this area. (p. 79)

While Planning staff is concerned about the proposed level of imperviousness for the project, the master plan chose not to impose a specific cap on the level of imperviousness, relying instead on low-density zoning, cluster development, forest and stream buffer protection, forest planting, stream restoration, and environmental best management practices to maintain or improve water quality in the watershed. The Planning Board will work with the applicant to minimize imperviousness in the Northwest Branch watershed through the regulatory process, including any limits established by the County Council.

Provision of public water and sewer service for the property is consistent with the PIF policy.

County Executive's Recommendation: Maintain W-6 and S-6; advance to W-3 and S-3 upon the Planning Board's approval of a preliminary plan that:

- Maintains the proposed water and sewer main alignments as shown on the draft plan.
- Maintains an impervious area limitation in the Hawlings River watershed of no more than 10 percent as shown on the draft plan.
- Reduces the impervious area within the Northwest Branch watershed to 25 percent.

Planning Staff Recommendation: Maintain W-6 and S-6; advance to W-3 and S-3 upon the Planning Board's approval of a preliminary plan that:

- Maintains the proposed water and sewer main alignments as shown on the preliminary plan.
- Maintains an impervious area limitation in the Hawlings River watershed portion of the property of no more than 10 percent.
- Does not exceed a limit of impervious area established by the County Council within the Northwest Branch watershed portion of the property.

[9] WSCCR 22-TRV-05A: MICHAEL AND DENISE SINAY,

[10] WSCCR 22-TRV-06A: NIRMALA RAO

[11] WSCCR 22-TRV-09A: WILLIAM REINHOLD

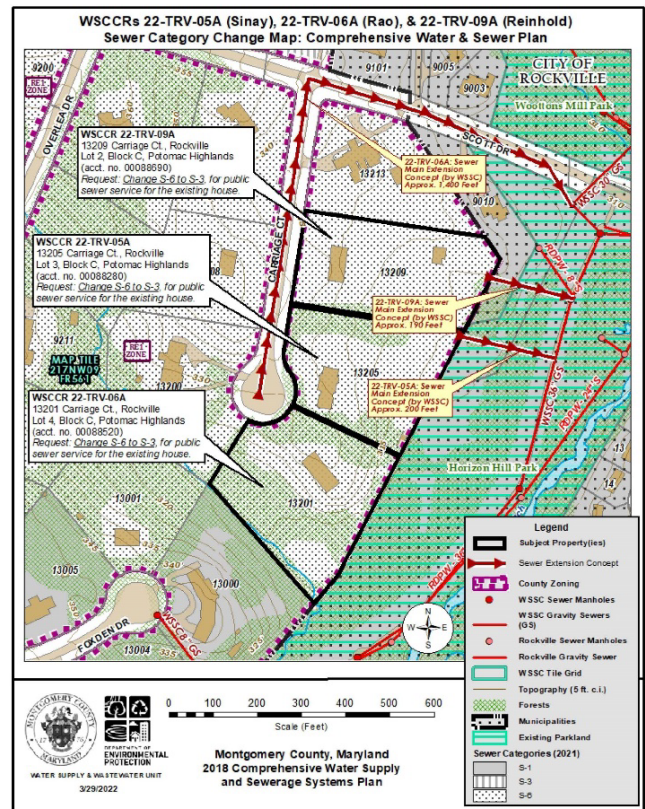
These three cases were previously deferred by the County Council under CR 20-92 on March 21, 2023 for a decision in the 2022 update of the *Water and Sewer Plan* concerning a revision of the Potomac Peripheral Sewer Service Policy.

The applicants each request a sewer category change from S-6 to S-3 to allow public sewer service for an existing single-family house. The properties total 6.77 acres and are all zoned RE-1. They are within the 2002 *Potomac Subregion Master Plan* area and are outside the planned public sewer envelope. The applicants have requested approval for public sewer service under the Potomac Peripheral Sewer Service Policy. The addresses, from north to south are:

- [WSCCR 22-TRV-09A] 13209 Carriage Court, Rockville (2.29 acres)
- [WSCCR 22-TRV-05A] 13205 Carriage Court, Rockville (2.02 acres)
- [WSCCR 22-TRV-06A] 13201 Carriage Court, Rockville (2.46 acres)

All three properties abut a sewer envelope that is within the City of Rockville. As part of the 2022 comprehensive update of the *Water and Sewer Plan*, the County Executive recommended that properties within the City of Rockville's sewer service area be excluded from use in the Potomac Peripheral Sewer Service Policy. These three cases were deferred while the county awaited the State's approval of the comprehensive *Water and Sewer Plan* update. The State concurred with the county, and, as such, the Potomac Peripheral Sewer Service Policy does not apply to properties that abut the Rockville sewer envelope. The policy only applies to properties abutting the Potomac sewer envelope as shown in the 2002 Potomac Subregion Master Plan.

The property at 13201 [WSCCR 22-TRV-06A] also abuts the Potomac sewer envelope, but the Potomac Peripheral Sewer Service Policy is only intended for "properties which already abut existing or



Description: A map showing existing sewer service area categories for WSCCRs 22-TRV-05A, 22-TRV-06A, and 22-TRV-09A, along with existing sewer mains and proposed sewer main extensions for the three requests.

Figure 18. Page 47 from County Executive's report

proposed mains and on properties which can be serviced by sewer extension within public rights-of-way". Since there is no abutting sewer infrastructure or infrastructure within close proximity to this property, the peripheral sewer policy does not support public sewer for this property.

County Executive's Recommendation for all three cases: Deny S-3; maintain S-6

Planning Staff Recommendation for all three cases: Deny S-3; maintain S-6

SECTION 3: CONCLUSION

Staff recommends that the Planning Board support Planning staff's category change recommendations in this report. Staff will transmit the recommendations to the County Council for final action.

ATTACHMENT

- A. County Council Notice of Public Hearing and County Executive's Report