

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

RECEIVED

JUL 5 2012

HARFORD COUNTY COUNCIL

Case No. 5782
 Date Filed 6/27/12
 Hearing Date _____
 Receipt _____
 Fee \$ 400.00
 Type Interpretation

Shaded areas for Office Use Only

Information to be Submitted with Application

1. A plot plan drawn to scale indicating all pertinent data.
2. A list of all adjoining property owners with mailing addresses.
3. Names and addresses of all persons having legal or equitable interest in the property.
4. All required supporting documentation or additional studies as may be required; including traffic and environmental studies, etc.

NOTE:

All applicants **MUST** schedule a pre-application meeting with the Department of Planning and Zoning prior to filing any application to the Board of Appeals.

To schedule please call 410-638-3119.

Nature of Request and Section(s) of Code

CASE 5782 MAP 56 TYPE Special Exception
ELECTION DISTRICT 01 TAX ID 01320203, 01320211
01380249
LOCATION 1900-1906 Toll Green Way, Bel Air 21015 & 1827-
1907 Eastport Way, Bel Air 21015 & Grid 2C Parcel 591
BY Evergreen Business Trust, 2231 Conowingo Road, Bel Air
21015
Appealed because an interpretation of the boundaries of a zoning
district pursuant to Section 267-10 requires approval by the
Board.

Owner (please print or type)

Name Evergreen Business Trust Phone Number Call Attorney
 Address 2231 Conowingo Road, Bel Air, Maryland 21015
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____
 Address _____
Street Number Street City State Zip Code

Contract Purchaser Peak Management, LLC Phone Number Call Attorney
 Address 9640 Deerco Road, Timonium, Maryland 21093
Street Number Street City State Zip Code

Attorney/Representative Robert S. Lynch, Esquire Phone Number 410-879-2222
 Address Stark and Keenan, P.A., 30 Office Street, Bel Air, Maryland 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property 1900 Toll Green Way, Bel Air, MD 21015-000 &
1827 Eastport Way, Bel Air, Maryland 21015-1436
SEE ATTACHED FOR ALL OTHER PROPERTY INFO

Subdivision Evergreen Farms Lot Number 1, 2, and OS

Acreage/Lot Size 17.54 acres Election District 01 Zoning R1/R3/R4 Tax ID # _____

Tax Map No. 56 Grid No. 2C Parcel 591 Water/Sewer: Private _____ Public
Lots 1 & 2

List ALL structures on property and current use: Vacant

Estimated time required to present case: 2 hours

If this Appeal is in reference to a Building Permit, state number No.

Would approval of this petition violate the covenants and restrictions for your property? Yes _____ No

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes _____ No

Is this request within one (1) mile of any incorporated town limits? Yes _____ No

Request

SEE ATTACHED.

Justification

SEE ATTACHED.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

ATTACHMENT TO
BOARD OF APPEALS APPLICATION

Owner: Evergreen Business Trust
Applicant/Contract Purchaser: Peak Management, LLC

Request and Justification

Request:

This is a request for an Interpretation of a Zoning Map pursuant to Section 267-10 of the Harford County Zoning Code.

Justification:

Section 267-10 of the Harford County Zoning Code states, "The Board, upon application, thereof, after notice to the owners of the properties affected and public hearing, may render interpretation of the boundaries of a zoning district by: (A) Determination of location: determining the location of a road or lot layout actually on the ground or as recorded in comparison to the road and lot lines as shown on the zoning map." **Exhibit B** attached hereto demonstrates that 0.33 acres of R3 zoned land adjacent to the platted lot line of Tollgate Parkway should be interpreted as R4 zoned land and 0.05 acres of R4 zoned land adjacent to the platted lot line of Tollgate Road should be interpreted as R3 zoned land. This "Interpretation of Zoning Map" is consistent with Section 267-17(c).

ATTACHMENT TO
BOARD OF APPEALS APPLICATION

Owner: Evergreen Business Trust
Applicant/Contract Purchaser: Peak Management, LLC

Description of Properties Subject to Request

Parcel No. 1:

Account No.	01-320203
Address:	1900-1906 Toll Green Way Bel Air, Maryland 21015-1436
Tax Map:	56
Grid No.:	2C
Parcel No.:	591
Lot No.:	1
Acreage:	6.45 acres
Subdivision:	Evergreen Farms - 98/48
Zoning:	R4

Parcel No. 2:

Account No.	01-320211
Address:	1827-1907 Eastport Way Bel Air, Maryland 21015-1436
Tax Map:	56
Grid No.:	2C
Parcel No.:	591
Lot No.:	2
Acreage:	9.43 acres
Subdivision:	Evergreen Farms - 98/48
Zoning:	R1/R3/R4

Parcel No. 3:

Account No.	01-380249
Address:	Tollgate Parkway Bel Air, Maryland 21015-1436
Tax Map:	56
Grid No.:	2C
Parcel No.:	591
Lot No.:	Open Space
Acreage:	0.053 acres
Subdivision:	Evergreen Farms - 98/48
Zoning:	R4

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

MARY F. CHANCE
DIRECTOR OF ADMINISTRATION



C. Pete Gutwald
Director of Planning & Zoning

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

June 20, 2012

Mr. Robert Lynch
Stark and Keenan, Attorneys at Law
30 Office Street
Bel Air, Maryland 21014

RE: Evergreen Farms

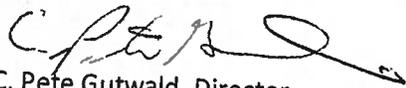
Dear Mr. Lynch:

Pursuant to our conversation, the Department has reviewed the zoning district boundaries for the property identified on tax map 56 parcel 591, lots 1 and 2 (Evergreen Farms). Your request was to move the zoning lines to match the platted road rights of way of Tollgate Road per 267-17 (C) of the Zoning Code. This provision permits the Department to determine the precise location of any zoning district. Specifically, item (C) states "Boundaries shown as following or approximately following platted lines or other property lines as shown on the tax maps shall be construed as following such lines."

This provision of the code was intended to adjust zoning district boundaries in situations where lines may have shifted due to the use of different mediums or technology. This is not the case for this property and the recorded right-of-way for Tollgate Road. The zoning line for this property was established prior to the road right-of-way being recorded and reaffirmed when the road right-of-way was recorded. Additionally, the existing zoning boundaries were recognized in previous rezoning applications and recorded with the existing approved subdivision of Evergreen Farms, documenting the precise location of the zoning district.

If you have any further questions, please feel free to contact this office.

Sincerely,


C. Pete Gutwald, Director
Department of Planning and Zoning

CPG/sc

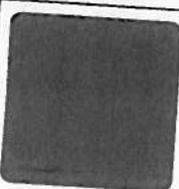
cc: Mary Kate Herbig, Assistant County Attorney
Anthony McClune, Deputy Director of Planning and Zoning

RECEIVED
JUN 22 2012

Preserving Harford's past; promoting Harford's future

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 MY DIRECT PHONE NUMBER IS (410) 638-3103
410.638.3000 • 410.879.2000 • TTY 410.638.3086 • www.harfordcountymd.gov
THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

EXHIBIT A



LOCITY MAP
 HARFORD COUNTY, MARYLAND
 DATE: 1/1/2012

NOTES:

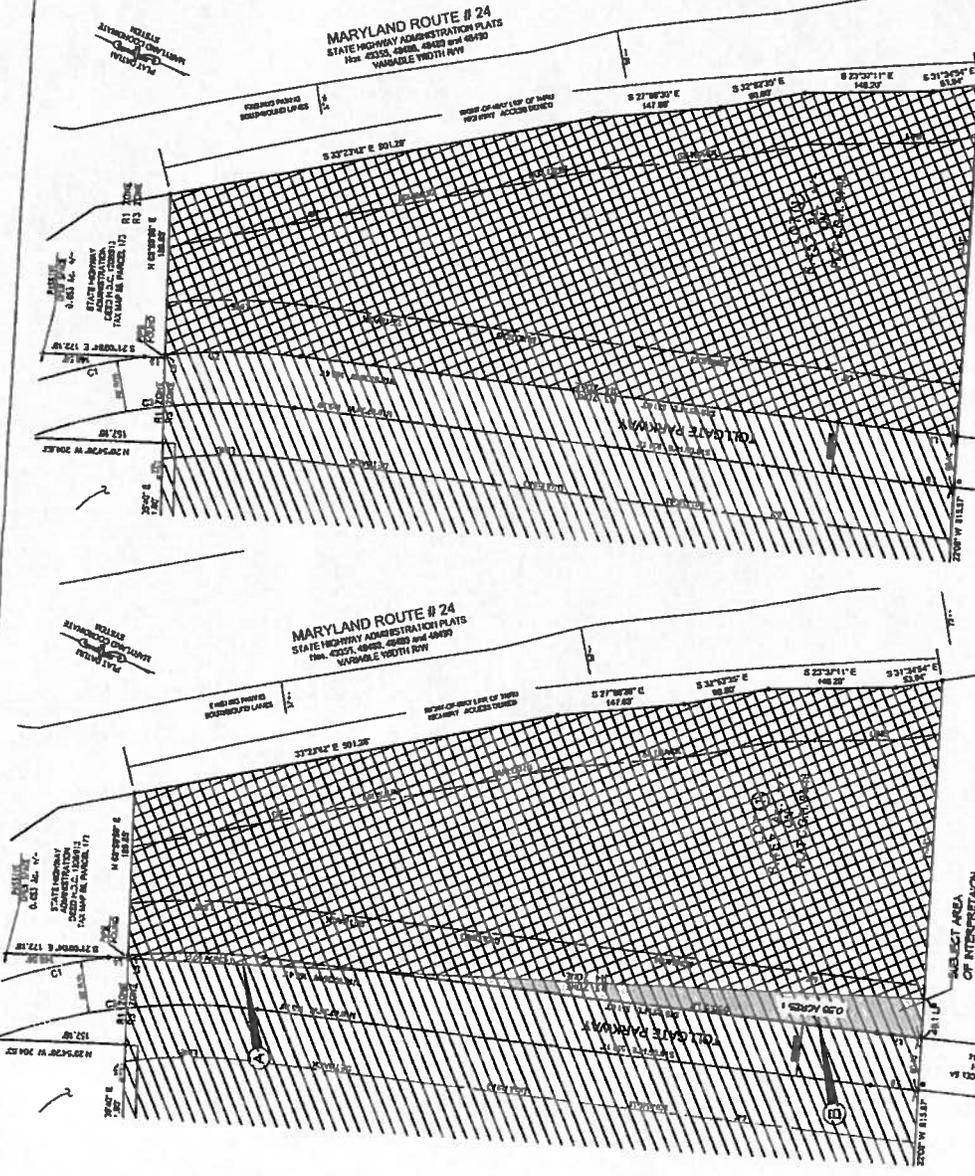
1. THE "CURRENT ZONING LINE" SHOWN HEREON IS BASED UPON THE GRAPHIC DEPICTION OF THE ZONING LINES SHOWN ON THE PUBLISHED 2008 ZONING MAPS, MAP 56, OF HARFORD COUNTY, MARYLAND.
2. THE "INTERPRETED ZONING LINE" IS ADJUSTED TO REFLECT THE HARFORD COUNTY ZONING CODE 267-T1C WHICH DESCRIBES THE MANNER IN WHICH THE ZONING LINES ARE TO BE INTERPRETED.



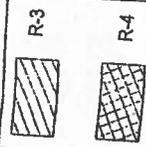
EXCEPT FRONT TAP MAP 56
 AS PUBLISHED ON MD. SOAT WEBSITE
 JUNE 1, 2012
 MAP SCALE: 1" = 200'

ZONING AND INTERPRETATION
 EVERGREEN WOODS
 (FORMERLY EVERGREEN FARMS)
 LOT 1 AND 2

GEORGE WILLIAM STEPHENS, JR. and ASSOCIATES, INC.
 HARFORD COUNTY, MARYLAND
 1000 W. BALTIMORE AVE., SUITE 200
 HARFORD, MD 21144
 PHONE: 410-326-1100
 FAX: 410-326-1101
 WWW.GWASOCIATES.COM



ADJUSTED ZONING LINE
 PLAN SCALE
 1" = 200'



CURRENT ZONING LINE
 PLAN SCALE
 1" = 200'

Ⓐ 0.05 ACRES OF R-4
 SHOULD BE R-3.

Ⓑ 0.33 ACRES OF R-3
 SHOULD BE R-4.

Level of Survey: Subdivision
 Date: 1/1/2012
 Harford County, Maryland
 Local Government of Property
 The State of Maryland
 Department of General Services
 Division of Land Management
 1000 W. BALTIMORE AVE., SUITE 200
 HARFORD, MD 21144
 PHONE: 410-326-1100
 FAX: 410-326-1101
 WWW.GWASOCIATES.COM

EXHIBIT B



PROJECT NO.
 DATE
 NOT TO SCALE

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

MARY F. CHANCE
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

January 17, 2013

Department of Planning and Zoning

RECEIVED

JAN 22 2013

HARFORD COUNTY COUNCIL

STAFF REPORT

BOARD OF APPEALS CASE NO. 5782

APPLICANT/OWNER: Evergreen Business Trust
2231 Conowingo Road, Bel Air, MD 21015

CONTRACT PURCHASER: Peak Management, LLC
9640 Deereco Road, Timonium, MD 21093

REPRESENTATIVE: Robert S. Lynch, Esquire
Stark and Keenan, P.A.
30 Office Street, Bel Air, MD 21014

LOCATION: Tax Map: 56 / Grid: 2C / Parcel: 591
Election District: First (1)

ACREAGE: 17.54+/- Acres

ZONING: R1/R3/R4 Urban Residential Districts

DATE FILED: June 27, 2012

HEARING DATE: January 30, 2013

APPLICANT'S REQUEST and JUSTIFICATION:

See Attachment 1.

CODE REQUIREMENTS:

The Applicants are requesting an Interpretation of the boundaries of a zoning district pursuant to Section 267-10 of the Harford County Zoning Code.

Preserving Harford's past; promoting Harford's future

MY DIRECT PHONE NUMBER IS (410) 638-3103

Section 267-10 of the Harford County Code reads:

267-10 Interpretation of Zoning Map

The Board, upon application thereof, after notice to the owners of the properties affected and public hearing, may render interpretation of the boundaries of a zoning district by:

- A. Determination of location: determining the location of a road or lot layout actually on the ground or as recorded in comparison to the road and lot lines as shown on the zoning maps.*
- B. Map errors: permitting adjustment of any boundary line to conform to the intent of the comprehensive rezoning and that said adjustment is necessary to rectify a map-drafting error which occurred during the comprehensive rezoning process.*

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants' property is located on the west side of MD Route 24 south of the intersection of Plumtree Road and Tollgate Road. Enclosed with the report are copies of a location map and the Applicants' site plan (Attachments 2 and 3).

The subject property is located inside the Development Envelope and is part of the Bel Air South Community Center. The predominant land use designations in this area of the County are Low, Medium and High Intensities. The Natural Features Map reflects Stream Systems. The subject property is designated as High Intensity, which is defined by the 2012 Master Plan as:

***High Intensity** - Areas within the Development Envelope that are intended for higher density residential development, exceeding 7.0 dwelling units per acre. These areas are also appropriate for a wide range of commercial uses including retail centers, home improvement centers, automotive businesses and professional offices.*

***Community Centers** – Areas intended to combine a mix of uses including civic, social and cultural facilities along with more intensive commercial, service, office, and residential activities. These centers should be located along major highways or at important crossroads.*

Enclosed with the report are copies of the Abingdon-Emmorton Community Area Map and Natural Features Map (Attachments 4 and 5).

STAFF REPORT

Board of Appeals Case Number 5782

Evergreen Business Trust &

Peak Management LLC

Page 3 of 4

Land Use – Existing:

The existing land uses in the area are consistent with the intent of the Master Plan. Residential uses include single-family dwellings, townhouses, garden apartments and condominiums. Commercial uses range from individual retail uses to an integrated community shopping center with a wide variety of uses. Other uses include motor vehicle service, mini-warehousing, restaurants, personal and professional services. Institutional uses include churches, schools, day care facilities, nursing homes and assisted living facilities.

The subject property is unimproved and is heavily wooded with mature forest. The topography of the subject property is gently to steeply sloping from the east to the west. The steepest slopes are located on the west side of the future Tollgate Road extension. An area of non-tidal wetlands is located on the west side of the property. Enclosed with the report are a site topography map and aerial photo (Attachments 6 and 7).

Zoning:

The zoning classifications in the area are generally consistent with the 2012 Master Plan as well as the existing land uses. Residential zoning in the area surrounding the subject property includes R1, R2, R3 and R4 Urban Residential Districts. Commercial zoning in the area surrounding the subject property includes RO/Residential Office District, B1/Neighborhood Business District, B2/Community Business District, B3/General Business District and CI/Commercial Industrial District. The subject property is split zoned R1, R3 and R4/Urban Residential Districts as shown on the enclosed copy of the zoning map (Attachment 8).

The Applicants are requesting an interpretation of the zoning boundaries for the subject property. The Applicants are requesting that the zoning boundary between the R3 and R4 be adjusted to run along the eastern edge of the right-of-way for the future extension of Tollgate Road. Should the interpretation be approved by the Board, the acreage breakdown per zoning district for the subject property would be as follows: R1 – 0.4 acres, R3 – 10.6 acres, and R4 – 6.5 acres.

SUMMARY:

267-10 Interpretation of Zoning Map

The Board, upon application thereof, after notice to the owners of the properties affected and public hearing, may render interpretation of the boundaries of a zoning district by:

- A. *Determination of location: determining the location of a road or lot layout actually on the ground or as recorded in comparison to the road and lot lines as shown on the zoning maps.*

- B. *Map errors: permitting adjustment of any boundary line to conform to the intent of the comprehensive rezoning and that said adjustment is necessary to rectify a map-drafting error which occurred during the comprehensive rezoning process.*

The Applicants are requesting an interpretation of the R3 and R4 zoning boundaries for the subject property. The property was split zoned in its current configuration during the 1982 Comprehensive Zoning Review. The Department of Planning and Zoning had recommended that the subject property be rezoned entirely to R3 during the Comprehensive Zoning Review. However, the Council voted to split zone the subject property to R3 and R4. At the time of the Comprehensive Zoning review, the exact location of the future right-of-way of Tollgate Road had not been determined. Attached to this Staff Report is a copy of a portion of the Comprehensive Zoning Log and the 1982 Zoning Map (Attachment 9 and 10).

The right-of-way for the future extension of Tollgate Road on this parcel was not finally determined until 1994. The owner of the subject property received approval for a Planned Residential Development (PRD) through the Board of Appeals (Case No. 4214) in 1994. The right-of-way was subsequently recorded in 1999 on Plat 98-48 entitled "Evergreen Farms" (Attachment 11). The plat demonstrates that the zoning boundary does not precisely follow the right-of-way as typically would be expected.

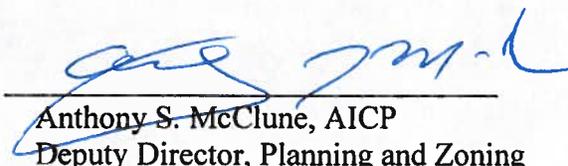
Zoning boundaries are generally intended to follow right-of-way lines, property lines or other natural features. The Applicants' request to adjust the zoning boundary to follow the platted right-of-way for Tollgate Road is reasonable and consistent with generally accepted planning principles and practices.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the Applicants' request for an interpretation to adjust the zoning boundary between the R3 and R4 districts to follow the right-of-way for Tollgate Road Parkway be granted.



Share P. Grimm, Chief
Site Plan & Building Permits Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning