



Mayor and City Council of Cumberland

Mayor Raymond M. Morriss
Councilman Seth D. Bernard
Councilman Richard J. "Rock" Cioni
Councilman Eugene T. Frazier
Councilwoman Laurie P. Marchini

City Administrator Jeffrey D. Rhodes
City Solicitor Michael S. Cohen
City Clerk Marjorie A. Woodring

AGENDA

M&CC Regular Meeting
City Hall, 57 N. Liberty St., Cumberland, MD

DATE: March 03, 2020

CLOSED SESSION

1. 5:00 p.m. - Convene in open session for the purpose of closing the meeting for an executive session pursuant to Sections 3-305(b) (3) and (7) of the General Provisions Article of the Annotated Code of Maryland to discuss the potential acquisition of real estate and to consult with legal counsel regarding the transfer of City-owned property at 400 N. Mechanic Street,
2. Executive Session

OPEN SESSION

1. 6:15 p.m. - Reconvene into open session

Pledge of Allegiance

Roll Call

Statement of Closed Meeting

1. Summary Statement of closed meeting held March 3, 2020

Director's Reports

(A) Engineering

[Engineering](#) Division monthly report for February, 2020

(B) Fire

[Fire](#) Department monthly report for January, 2020

Unfinished Business

(A) Ordinances

- [1.](#) Ordinance No. 3864 (*2nd and 3rd readings*) - to repeal and reenact with amendments Chapter 8, Article 2, Sections 8-26 to 8-36, of the Code pertaining to floodplain management, to meet requirements of the National Flood Insurance Program

New Business

(B) Orders (Consent Agenda)

[Order](#) 26,613 - lifting Section 11-113 of the City Code to allow open containers of alcohol in a defined area of the downtown for the Hooley Pub Crawl, beginning March 14, 2020 at 12:00 p.m. and through March 15, 2020 at 2:00 a.m.; notwithstanding that open glass containers shall not be allowed

[Order](#) 26,614 - awarding \$50,000 in Community Legacy fund through the Central Business District Accessibility Improvement Program to Canal Place Preservation & Development Authority for the "No Fewer Than 12 Tenant and Public Access Location Project"

[Order](#) 26,615 – accepting the February 12, 2020, recommendation of the Historic Preservation Commission to authorize local historic site designation for the Avirett Place Columns located at the corner of Avirett Avenue and South Allegany Street

Public Comments

All public comments are limited to 5 minutes per person

Adjournment

Item Attachment Documents:

Engineering Division monthly report for February, 2020

City of Cumberland, Maryland

Engineering Division - Monthly Report

Capital Projects						February 26, 2020	
Order	Project No.	Project Name	Description	Phase	Comments	Updated By	Date of Update
2008	05-08-S	Evitts Creek CSO Upgrades Phase III (gravity sewer under railroad)	Replacement of CSO line connecting Evitts Creek Pump Station effluent with gravity line that parallels the Canal Towpath. Said gravity line is being replaced under project 17-03-S(1).	Design	NO CHANGE - This project has been complicated because of location of the sewer lines deep under the CSX Yards. A grant award for this project is identified in the Draft version of the Governor's budget. Design work will begin once formal notification is received	RLS	1/28/2020
2010	01-10-WWTP	CSO Storage Facility At WWTP	CSO storage and handling facility in accordance with LTCP	Construction	UPDATE Brick is installed on pump station, starting installation on stairwell 1 roof install started on stairwell 2. Mechanical and Electrical underway in all cells of tank as well as the pump station. Substantial Completion is now May 15, 2020.	KAR	2/26/2020
2013	1-13-FPM	Flood Control System Concrete Repairs	Repairs to various points of FCS system per USACOE inspection	Design	NO CHANGE - Project is still on hold pending MDE review of EAP for Dry Run. A grant application was submitted for the project through MDE will hear results in May 2020. Additionally, started USACE Section 408 request for floodwall extensions.	MDI	10/1/2019
2014	04-14-WWTP	Sludge Screening Study/Design	Study to select the best alternative to keep rags out of the recently cleaned and modified digester because the modifications will make it impossible to revive rags in the future.	Design	NO CHANGE Need/Benefit of the project is being reevaluated, and for now the project is on hold. Design is complete and the project will remain on this report for the time being.	RLS	4/2/2018
2014	13-14-M	Mechanic Street Access Road Improvement Project	Repaving and ADA ramp improvements to the section Mechanic Street from I-68 to Bedford Street. Includes improvements to the block of Bedford Street from N. Centre to N. Mechanic Street and Baltimore Street to the Bridge.	Construction	NO CHANGE Project is substantially complete. All ADA ramps and new sidewalks have passed ADA field inspection by SHA. Material closeout has started.	JRD	1/28/2020
2014	19-14-M	Greene Street Complete Street Plan	Planning Study for Greene Street	Planning	NO CHANGE - The Design Report from Alta Planning + Design was submitted and presented to the Mayor and City Council. The plan to start work on Construction Funding Applications has been delayed because of the Baltimore Street Project, which would have been competing for the same funds. This project still needs to be done and should be a priority in the future.	RLS	6/1/2017
2015	9-15-M	Potomac River Walk	The Study Phase of this project is being done through the Cumberland MPO and consists of a Walk / Trail for pedestrians and bikes along the Potomac River between Wills Creek and the YMCA	Study	NO CHANGE -This project has been turned over to Canal Place. Engineering Services for Design were received. Recommendation from the committee was to award to CEC.	KAR	8/9/2019
2015	18-15-S	CSO Water Quality Analysis	Base line data collection for analysis of future CSO needs after CSO Storage is on line.	Planning	NO CHANGE Project continues. Stream sampling ongoing on a monthly basis pre storage and post storage.	RJK	2/19/2020
2015	19-15-M	WWTP & Collection System Asset Management Plan	Development of an Asset Management Plan	Planning	UPDATE Asset Management Program/Capital Improvement implementation. Working on Survey 123 and Collector with Sewer & Water Staff. Fieldwork delegated to more staff, SOP being developed. Programs slated to be up and fully functional by June 30, 2020.	RJK	1/28/2020

City of Cumberland, Maryland

Engineering Division - Monthly Report

Capital Projects						February 26, 2020	
Order	Project No.	Project Name	Description	Phase	Comments	Updated By	Date of Update
2015	23-15-M	Flood Insurance Rate Map (FIRM) Modernization and Implementation	Update FIRMs and the Floodplain Ordinance, and conduct an outreach to the community to apprise landowners of the impact of those changes.	Planning	NO CHANGE - The Letter of Final Determination date is now October, 2018, with a projected effective date of April, 2019.	PJD	1/3/2019
2016	12-16-M	Baltimore Street Access Improvement - Final Design	The purpose of the New Baltimore Street Town Center project is to reopen and improve Baltimore Street, which is currently configured as a pedestrian mall, to vehicular traffic while maintaining elements of the mall.	Design	NO CHANGE - EADS has submitted a second 30% design package to MDOT SHA for review. EADS to continue working on the design as they wait for SHA comments of first submission. The next drawing submission is scheduled for late March.	RLS	1/28/2020
2016	17-16-M	Stage Renovations at Liberty Street Stage	Replace wood stage with Concrete	Design	NO CHANGE - This project would be unnecessary if the Baltimore Street Access project is executed. The project will remain on this list until the Baltimore Street project moves to construction.	RLS	5/15/2019
2016	18-16-BR	John J. McMullen, Bridge No. A-C-01 Repairs	Bridge Repair	Planning	NO CHANGE - This project is expected to move forward in FY21 with State Aid Funds.	RLS	1/28/2020
2016	19-16-S	78" Parallel Pipeline from Mill Race to CSO	78" Pipeline to CSO tank in accordance with Consent Decree	Design	UPDATE - Design work continues, as City staff works on property acquisition.	RLS	10/9/2019
2017	2-17-FPM	Flood Control Encroachment removal Project	The City as the Local Sponsor of the Flood Control Project is expected to maintain the easements along the Flood Control Project, however the area along Wills Creek and other areas were never given any comments until the Corps of Engineers standards changed. Completion of this project is necessary to allow the City to get a Satisfactory rating on its annual Flood Control Inspections.	Planning	NO CHANGE - This project has been delayed because of other work, but must be done. A tree removal project has been bid out and a contractor selected to do the work of removing trees in the encroachment area.	RLS	7/11/2018
2017	3-17-M	Route 51 Bridge 12" Waterline Replacement	Replace water line on bridge as part of SHA Bridge Deck Project	Construction	NO CHANGE - The contract for the bridge replacement has been awarded but the water line is not expected to be replaced until FY21 due to construction phasing.	RLS	5/15/2019
2017	18-17-M	Maryland Avenue Development	This is not an Engineering Project, but included here to cover future department work with the development.	Design	NO CHANGE - The department is supporting Cumberland Gateway LLC with historical records and will review stormwater design in the future.	RLS	5/15/2019
2017	29-17-UTIL	VOID See 19-15-M	VOID				
2017	30-17-WWTP	40 CFR 441 Compliance - Dental Dischargers	Collection of 1-time compliance reports from dental offices that remove amalgam.	Planning	UPDATE Twenty (20) dental offices have returned their 1-time compliance report to date. Dental offices have until July 2020 to comply with this new Federal regulation. Six dental offices have yet to report. Due date to comply is July 14, 2020.	RJK	2/19/2020
2017	31-17-W	Decatur Street 24" Crosstown Water Main Replacement	Prior to designing the water main replacement a more detailed Water Model analysis of the City's system will be done to make sure the issues are being properly addressed. Design will follow.	Design	UPDATE Bennett Brewer and Associates are at 90% completion. The 90% documents were reviewed By City Staff in February, and contract documents are scheduled to be ready for MDE review in March 2020.	JRD	2/18/2019
2018	08-18-BR	Cumberland Street Bridge Replacement	This project will replace the bridge structure.	Design	NO CHANGE - EBA continues to work on the preliminary engineering on this project, with on site activities ramping up. Work will continue throughout FY20/21	RLS	10/9/2019

City of Cumberland, Maryland

Engineering Division - Monthly Report

Capital Projects						February 26, 2020	
Order	Project No.	Project Name	Description	Phase	Comments	Updated By	Date of Update
2018	09-18-BR	Baltimore Street Bridge Replacement	This project will replace the bridge structure.	Design	NO CHANGE - Preliminary Engineering is nearly complete. Expect to move into the final design stages, pending MDOT and FHWA approval, in the coming months	RLS	1/28/2020
2018	19-18-M	ADA Improvements at 218 Washington Street	Construct an ADA compliant parking space in the 200 block of Washinton Street, and reset the brick sidewalk adjacent to parking area.	Design	UPDATE - project data collection and review continues.	JRD	2/18/2020
2018	22-18-M	Solid Waste and Recycling Collection	Contract documents for the FY20 garbage and recycling collection bid process	Planning	UPDATE New schedule in effect! City conducting outreach to get collection/recycling details to public. Presentation to Rotary March 3 (City County program).	RJK	2/19/2020
2018	23-18-WWTP	FY 2019 MDE Energy Grant Optimization of the Aeration System at the WRF	Application through MDE for energy grants for WWTP or WFPs	Construction	UPDATE New blowers #1 and #2 are installed and will be started up on 1/27. All work is completed in the bio-reactors. Work to begin on final blower #3 after 1/27 startup.	MDI	1/24/2020
2018	24-18-M	Cumberland Street Retaining Wall	This project includes the installation of a retaining wall and the replace of the closed portion of sidewalk along Cumberland Street at Market Street. Also included is the installion of ADA compliant curb/sidewalk ramps.	Construction	UPDATE The wall and utility installation are complete Installation of curb, sidewalk, and fencing has started. The project is anticipated to be completed near the end of February.	JRD	2/18/2020
2018	25-18-BR	SHA Project: Replacement of MD 51 Bridge Deck	Replace the water line under the industrial blvd bridge under a MDOT bridge rehabilitation project	Construction	Refer to project 3-17-W	RLS	10/11/2018
2018	26-18-M	Ridgeley Levee System Certification					
2018	29-18-W	Smouses Mill Pumping Station Upgrades	Replace existing pumps and VFD's, install a back-up generator, remove hydro-pneumatic tanks	Construction	UPDATE - C&T has installed new pump system, piping, and tank. One minor shutdown is still planned for upcoming weeks. Majority of work is completed.	MDI	1/24/2020
2018	30-18-SWM	WMHS Crisis Resource Center	Project involving SWM review Replaces an existing building with a new facility.	Design	NO CHANGE - Pre-construction meeting was held on 9/23. Belt has demoed existing structure and will be working on this project for next 6 months. City only assisting with SWM.	MDI	11/4/2019
2018	31-18-WFP	Pine Ridge Water & PUC Rate Issues	Project involves determining a path forward regarding the supplying of PA residents with water	N/A	NO CHANGE - City staff continues to work through issues with PA regulators about water issues	RLS	1/28/2020
2018	32-18-FPM	Rehabilitation Assistance for Flood Damages to Flood Risk Management Projects	Request USACE to make repairs or provide funding to address flood control issues	Planning	NO CHANGE - The USACE has denied financial support due to the flood control being in an unacceptable condition. The City is looking to enter the SWIF program to receive aid to get financial support for construction.	RLS	10/12/2018
2018	33-18-RE	Constitution Park Marble Courts	Installation of marble courts, adjoining pavilion, and upgrades to nearby comfort station in Constitution Park	Construction Bidding	UPDATE - The M&CC awarded the contract to the low bidder Dotson's Contracting. Engineering Dept. is awiting notification for the City Clerk's Office the the contractor has signed the contract and provided all the necessary documentation.	JRD	2/18/2020
2018	37-18-SWM	Columbia Gas Line - Walnut Street					
2018	40-18-WWTP	Dry Run Detention Dam and Culvert Emergency Action Plan	Engineering Services to perform Dam Breach Analysis for EAP Execution	Study	NO CHANGE - The EAP is complete and has been submitted to MDE. Waiting for confirmation from MDE that they have filed the EAP	RLS	1/28/2020

City of Cumberland, Maryland

Engineering Division - Monthly Report

Capital Projects						February 26, 2020	
Order	Project No.	Project Name	Description	Phase	Comments	Updated By	Date of Update
2018	43-18-BR	Fayette Street Bridge Replacement	This project will replace the bridge structure.	Planning	UPDATE - The bridge has been opened for one lane of traffic. The bridge will be replaced in the future.	RLS	2/26/2020
2018	44-18-BR	Washington Street Bridge Replacement	This project will replace the bridge structure.	Planning	NO CHANGE - Studies have been returned and subject to CSX negotiations.	RLS	8/5/2019
2019	5-19-M	Virginia Ave Lot Demolition	Remove two structures and retaining walls at 6, 8 and 10 Virginia Ave.	Construction Bidding	NO CHANGE - The grading plan has been approved by ASCD and the project has been turned over to Code Enforcement for demolition	RLS	8/5/2019
2019	7-19-WFP	Filter Building Pilot Study	Perform a study to evaluate the potential to replace current filter building with a new membrane/GAC building in the future. The City is required to perform a pilot study to validate the technology we are proposing to use.	Study	NO CHANGE - The permit to perform the study has been submitted to PADEP. Awaiting approval before starting the study.	RLS	8/5/2019
2019	8-19-WFP	New Inlet Screens for Gate House		Design	UPDATE - This project is approved for bidding. The City will get this project advertised for bid in March	RLS	2/26/2020
2019	10-19-M	Residential Grass Mowing	Contract for mowing the residential properties within the City Limits which include blighted properties and recent demos.	Construction	NO CHANGE - Contract underway	KAR	1/28/2020
2019	11-19-M	Non Residential Grass Mowing	Contract for mowing the Commercial and Public Owned Properties within the City Limits. To include water tanks, City Hall, Public Safety and several others.	Construction	NO CHANGE -Contract Underway	KAR	1/28/2020
2019	13-19-M	Center City Parking Garage Improvements	Various improvements to the Center City Parking Garage including ADA improvements, wayfinding and signage upgrades, and painting	Construction	UPDATE -Kiosks and Gate system are installed and functioning. New system will not be put into service until new cameras are installed. Art work is being installed.	KAR	2/26/2020
2019	14-19-M	WWTP RMP Compliance Services	RMP Compliance for OSHA 29 CFR 1910	Planning	UPDATE RMP program updated to comply with OSHA 29 CFR 1910 for chlorine and sulfur dioxide storage on site. RMP review to took place 2/3/2020.	RJK	2/19/2020
2019	18-19-M	Nemacolin Avenue Survey	Survey of Nemacolin Avenue between Longwood Avenue and Richwood Avenue	Planning	NO CHANGE The final Plat and CAD draings have been recieved by the City.	JRD	11/5/2019
2019	24-19-M	Fall Tree Removal Project	Project to remove various hazardous street trees throughout the City.	Construction	NO CHANGE - This project was awarded to Kiddy Contracting and is underway.	KAR	1/28/2020
2019	27-19-M	Bellevue Street Sidewalk Upgrades	Removal and installation of new concrete sidewalks from Baltimore Ave to Fulton St. This will include the installation of ADA Accessible ramps.	Construction	UPDATE - Work Scheduled to begin March 2, 2020.	KAR	2/26/2020
2019	32-19-M	Brownfields Application 2019	Information Regarding Brownfields and potential projects within the city.	Study	UPDATE -Staff attended Brownfields Boot-Camp held by MDP 9/24	MEA	9/30/2019
2019	35-19-WWTP	Denite Filters Mudwell Mixing System	This project will evaluate and design a system for the mudwell tanks at the ENR to maintain solid suspense, prior to pumping the filtrate back to the head of the treatment plant.	Design	UPDATE - GD&F held final design meeting on 1/10/2020. City must now select design option and GD&F will provide associated specs and drawings.	MDI	1/24/2020

City of Cumberland, Maryland
Engineering Division - Monthly Report

Capital Projects						February 26, 2020	
Order	Project No.	Project Name	Description	Phase	Comments	Updated By	Date of Update
2019	36-19-WWTP	Blower Building Switchgear Replacement	This project replaced the existing Blower Building Switchgear to reduce the 4160V down to 480V to improve the safety of the building and to adequately protect our equipment.	Design	UPDATE- GD&F held final design meeting on 1/10/2020. City must now select design option and develop bid specs and drawings for design phase of project.	MDI	1/24/2020
2019	38-19-BR	Koon Dam Sidewalk Repairs Phase 3	Third phase of repairs, following 28-18-BR and 17-18-BR. Elevated sidewalk slabs need to be replaced.	Construction	UPDATE- Project was awarded to Harbel, Inc. on 1/22/2020. Construction is scheduled to begin on first week of February.	MDI	1/24/2020
2020	2-20-M	Frederick St Parking Garage Repairs	Repairing a spalled section of slab on grade in Frederick St parking garage, as well as looking into sealing all concrete driving surfaces	Planning	UPDATE- Researching proper repair systems for spalled concrete in parking garages. Working with Street Dept. to determine if city forces can make repairs.	MDI	1/24/2020

City of Cumberland, Maryland

Engineering Division - Monthly Report

Program Projects Update							February 25, 2020
Order	Department	Program/Project Name	Description	Phase	Comments	Updated By	Date of Update
	PUBLIC WORKS	Curbside Recycling	Curbside recycling program started in the City of Cumberland July 1, 2014	Ongoing	UPDATE Outreach to residents in regards to the program. Recycling presentation to Rotary in March.	RJK	19-Feb-20
	PUBLIC WORKS	Solid Waste Management Board	County Board for planning and discussion of County-wide recycling and solid waste issues	Ongoing	UPDATE Discussions occurring in regards to Mountainview Landfill and future landfill space, transfer station and contracts/permits. Waste Management and Advanced Disposal in the process of merger. This merger will effect disposal options in Allegany County. More information will be available as the merger occurs. Joint presentation on recycling to Rotary occurring in March 2020 (Siera/Raquel).	RJK	19-Feb-20
	WWTP	Cumberland Pretreatment Program	City Ordinance No. 3251 regulates industrial and significant dischargers to Cumberland's sewer and POTW. There are 4 Significant Industrial Users (SIUs) permitted under this Ordinance. Program may also regulate non-significant users that pose a threat or cause problems to the system or POTW.	Regulatory	UPDATE Scheduling 2020 sampling and inspections. Quarter 4 compliance reports due Feb 15. Dental Amalgam rule certifications - 6 more certifications due prior to July 2020.	RJK	19-Feb-20
	WWTP	POTW NPDES Permit	Requirements for compliance	Annual/As Needed	NO CHANGE - Renewal application mailed June 1, 2018. Permit expires April 2020. Awaiting MDE communication/site visits.	RJK	19-Feb-20
	WWTP/CSO	CSO Consent Decree Compliance Reporting	Reporting/Inspections	Semi-Annual/As Needed	NO CHANGE 2019 Semi-annual report submitted Jan 10. Currently the Consent Decree expires April 2023.	RJK	19-Feb-20
	Watershed	Evitts Creek Steering Committee	Cross-jurisdictional committee working on source water protection efforts.		NO CHANGE Next meeting to take place on April 16, 2020.	RJK	19-Feb-20
	STC	Shade Tree Commission	Care of trees along city rights of way and in parks.	NA			
	Evitts Creek Water Company	Forest Stewardship Plan (aka Resource Management Plan)	Management of the forested property around Lakes Gordon and Koon	NA			

Item Attachment Documents:

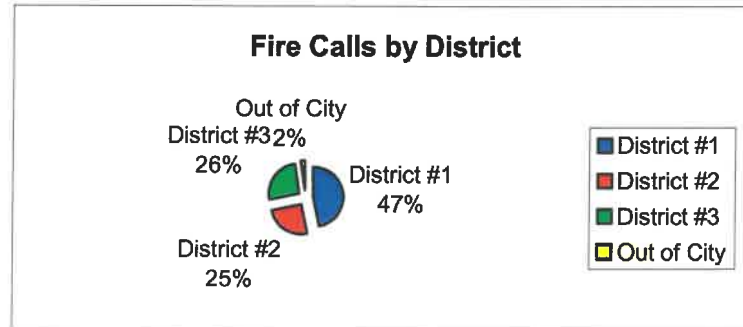
Fire Department monthly report for January, 2020

REPORT OF THE FIRE CHIEF FOR THE MONTH OF JANUARY, 2020
Prepared for the Honorable Mayor and City Council and City Administrator

Cumberland Fire Department Responded to 92 Fire Alarms:

Responses by District:

District #1	43
District #2	23
District #3	24
Out of City	<u>2</u>
	92



Number of Alarms:

Regular Alarms Answered	91
Second Alarms Answered	<u>1</u>
	92

Calls Listed Below:

Property Use:

Public Assembly	4
Educational	2
Institutional	3
Residential	46
Stores and Offices	4
Storage	1
Special Properties	28
Undetermined	<u>4</u>
	92

Type of Situation:

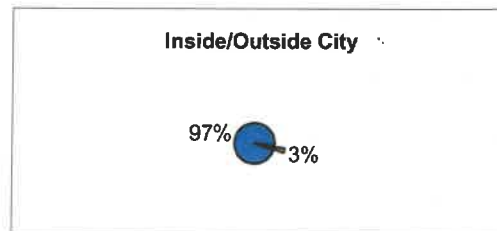
Fire or Explosion	7
Overpressure	1
Rescue Calls	44
Hazardous Conditions	9
Service Calls	7
Good Intent Calls	8
False Calls	<u>16</u>
	92

Total Fire Service Fees for Fire Calls Billed by Medical Claim-Aid in January:	\$2,250.00
Total Fire Service Fees for Fire Calls Billed by MCA Fiscal Year to Date:	\$12,550.00
Fire Service Fees for Fire Calls Paid in January:	\$794.78
Total Fire Service Fees for Fire Calls Paid Fiscal Year to Date:	\$2,570.00
Total Fire Service Fees Paid in FY2020:	\$7,715.00

Fire Service Fees for Inspections and Permits Billed in January:	\$150.00
Fire Service Fees for Inspections and Permits Paid in January:	\$0.00
Total Fire Service Fees for Inspections and Permits Paid Fiscal Year to Date:	\$400.00

Cumberland Fire Department Responded to 440 Emergency Medical Calls:

In City Calls	425
Out of City Calls	15
Total	<u>440</u>



Cumberland Fire Department Provided 10 Mutual Aid Calls:

5 Mutual Aid calls within Allegany County	
5 Mutual Aid calls outside of Allegany County	
<u>10</u>	
Bowman's Addition VFD	1
Cresaptown VFD	3
District #16 VFD	<u>1</u>
	5
Ridgeley, WV VFD	<u>5</u>
	10

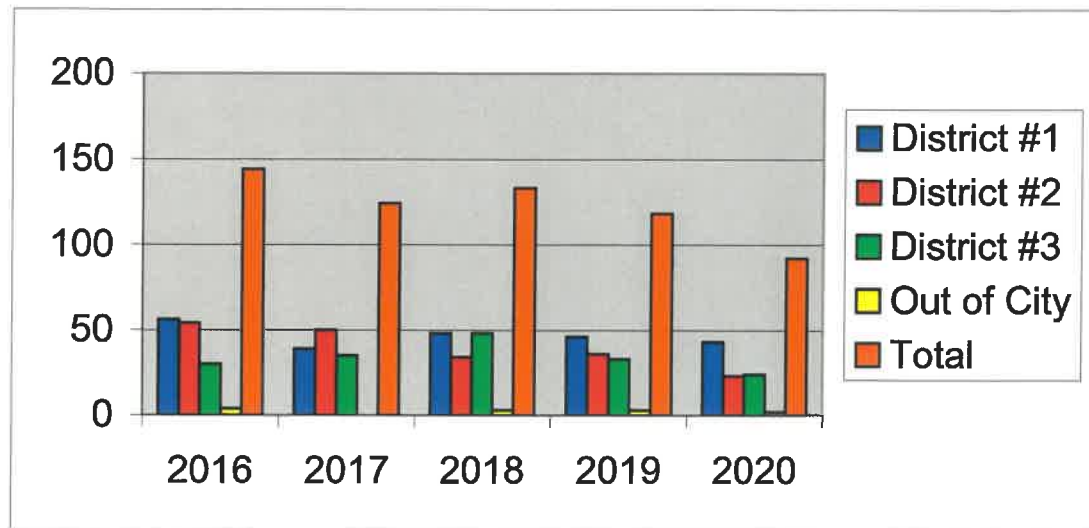
Cumberland Fire Department Provided 5 Paramedic Assist Calls:

1 Paramedic Assist calls within Allegany County	
4 Paramedic Assist calls outside of Allegany County	
<u>5</u>	
Cresaptown VFD	1
Ridgeley, WV VFD	2
Short Gap, WV VFD	1
Wiley Ford, WV VFD	<u>1</u>
	5

Total Ambulance Fees Billed by Medical Claim-Aid in January:	\$124,940.41
Ambulance Fees Billed Fiscal Year to Date:	\$863,846.41
Ambulance Fees Paid: Revenue received in January:	\$74,595.26
FY2020 Ambulance Fees Paid in FY2020:	\$490,015.88
Total Ambulance Fees Paid in FY2020: (All ambulance fees, current and previous fiscal years, paid in FY2020.)	\$645,192.27

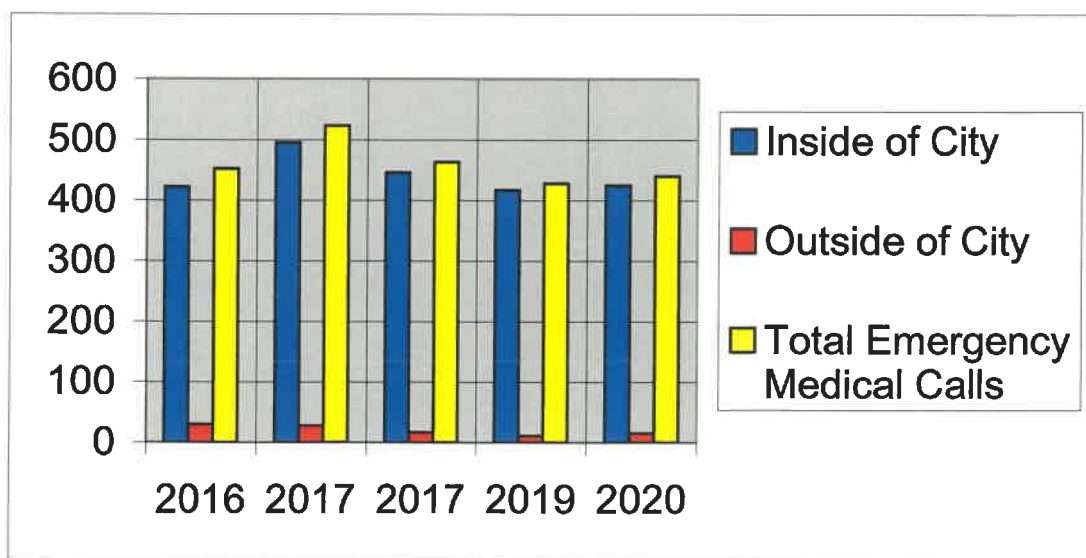
Fire Calls In the Month of January For Five-Year Period

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
District #1	56	39	48	46	43
District #2	54	50	34	36	23
District #3	30	35	48	33	24
Out of City	<u>4</u>	<u>0</u>	<u>3</u>	<u>3</u>	<u>2</u>
Total	144	124	133	118	92



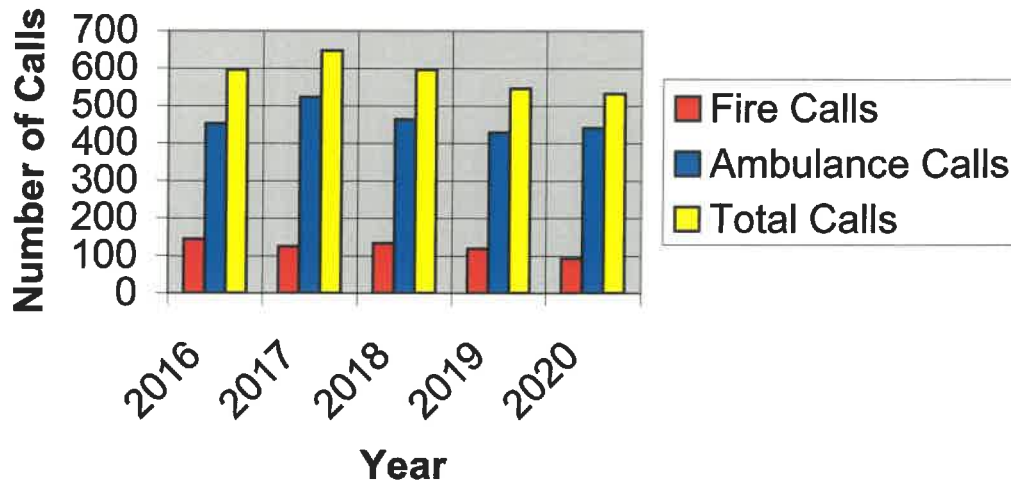
Ambulance Calls in the Month of January for Five-Year Period

	<u>2016</u>	<u>2017</u>	<u>2017</u>	<u>2019</u>	<u>2020</u>
Inside of City	422	495	446	417	425
Outside of City	<u>30</u>	<u>28</u>	<u>17</u>	<u>11</u>	<u>15</u>
Total Emergency Medical Calls	452	523	463	428	440



Fire and Ambulance Calls in the Month of January for Five-Year Period

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Fire Calls	144	124	133	118	92
Ambulance Calls	<u>452</u>	<u>523</u>	<u>463</u>	<u>428</u>	<u>440</u>
Total Calls	596	647	596	546	532



Training

Training Man Hours:	800.50
Radio Familiarization	8.00
Standard Operating Procedures	10.00
Aerial Operations	4.00
Apparatus Check Procedures	49.50
Hand Tools	12.00
Inservice Inspections	4.00
Drug Box Refresher	6.00
Cardiovascular System	7.50
Bariatric Training	5.00
Communications Equipment	1.00
Ladder Training	5.00
Firefighter I Course	600.00
Post Incident Review	11.00
Injury Prevention	57.00
Officer Meeting	2.00
Physical Fitness	18.50
	<u>800.50</u>

Personnel:

Justin M. Glass, Probationary Firefighter/EMT-B, began employment on January 6, 2020.
 Noah C. Davis, Probationary Firefighter/EMT-B, began employment on January 7, 2020.
 Seth A. Beeghly, Temporary Firefighter, began employment on January 8, 2020, and will be appointed Probationary Firefighter/EMT-B upon certification of a Maryland Emergency Medical Technician-Basic License.

Statistics Compiled by Julie A. Davis, Fire Administrative Officer

Item Attachment Documents:

1. Ordinance No. 3864 (*2nd and 3rd readings*) - to repeal and reenact with amendments Chapter 8, Article 2, Sections 8-26 to 8-36, of the Code pertaining to floodplain management, to meet requirements of the National Flood Insurance Program

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND ENTITLED “AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS CHAPTER 8 ARTICLE 2 (SECTIONS 8-26 TO 8-36) OF THE CODE OF THE CITY OF CUMBERLAND, THE CITY’S FLOODPLAIN MANAGEMENT ORDINANCE, FOR THE PURPOSE OF MEETING THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM.”

WHEREAS, local governments must meet the minimum requirements of the National Flood Insurance Program in order to be eligible for benefits thereunder; and

WHEREAS, in order to meet those requirements and remain eligible for those benefits, the City is amending its Floodplain Management Ordinance pursuant to the terms of this Ordinance.

NOW THEREFORE:

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND that sections 8-26 to 8-36 of the Code of the City of Cumberland be and are hereby repealed and reenacted with amendments, to read as is set forth in the attachment hereto:

SECTION 2: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this 11th day of February, 2020.

Raymond M. Morris, Mayor

ATTEST:

Marjorie A. Woodring, City Clerk

Sec. 8-26. - Short title.

This article shall hereafter be referred to as the Floodplain Management Ordinance of the City of Cumberland.

Sec. 8-27. – General provisions.

(a) Findings.

- (1) The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas (SFHA's) within the boundaries of the city. SFHAs are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. Structures that are inadequately elevated, improperly floodproofed, or otherwise unprotected from flood damage also contribute to flood losses.
 - (2) The city, by resolution, agreed to meet the requirements of the National Flood Insurance Program (NFIP) and was accepted for participation in the program on ~~[DATE OF REGULAR PROGRAM ENTRY]~~ February 18, 1981, September 1, 1983 1978. As of that date or as of ~~[DATE OF FIRST EFFECTIVE FIRM]~~ February 18, 1981 September 1, 1983 1978, the initial effective date of the ~~[COMMUNITY NAME]~~ Allegany County city FIRM(s), all development and new construction, as defined herein, are to be compliant with these regulations.
- (b) *Statutory authorization.* The Maryland General Assembly, in Md. Code Ann., Land Use Article, Title 4, has established as policy of the State that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning control, and that planning and zoning controls shall be implemented by local government in order to, among other purposes, secure the public safety, promote health and general welfare, and promote the conservation of natural resources. Therefore, the city ~~[COMMISSION/COUNCIL]~~ Board of County Commissioners council does hereby adopt the following floodplain management regulations.
- (c) *Statement of purpose.* It is the purpose of these regulations to promote the public health, safety and general welfare, and to:
- (1) Protect human life, health and welfare;

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- (2) Encourage the utilization of appropriate construction practices, in order to prevent or minimize flood damage in the future;
 - (3) Minimize *flooding* of water supply and sanitary sewage disposal systems;
 - (4) Maintain natural drainage;
 - (5) Reduce financial burdens imposed on the *community*, its governmental units and its residents, by discouraging unwise design and construction of *development* in areas subject to *flooding*;
 - (6) Minimize the need for rescue and relief efforts associated with *flooding* and generally undertaken at the expense of the general public;
 - (7) Minimize prolonged business interruptions;
 - (8) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
 - (9) Reinforce that those who build in and occupy *SFHAs* should assume responsibility for their actions;
 - (10) Minimize the impact of *development* on adjacent properties within and near *flood-prone* areas;
 - (11) Provide that the *flood* storage and conveyance functions of *floodplains* are maintained;
 - (12) Minimize the impact of *development* on the natural and beneficial functions of *floodplains*;
 - (13) Prevent *floodplain* uses that are either hazardous or environmentally incompatible; and
 - (14) Meet *community* participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.
- (d) *Areas to which these regulations apply.* These regulations shall apply to all *SFHAs* within the jurisdiction of ~~the [COMMUNITY NAME]~~ Allegany County, the city, and identified in subsection (e) of this section.

(e) Basis for establishing *SFHAs* and base flood elevations.

- (1) For the purposes of these regulations, the minimum basis for establishing *SFHAs* and base flood elevations is the *Flood Insurance Study (FIS)* for the city [TITLE OF FIS] ~~Allegany County, Maryland a~~ And Incorporated Areas dated April 3, 2020 [DATE OF FIS], or the most recent revision thereof, and the accompanying *Flood Insurance Rate Map(s) (FIRMs)* and all subsequent amendments and revisions to the *FIRMs*. The *FIS* and *FIRMs* are retained on file and available to the public at the city's engineering department, 20 Bedford St, Cumberland, MD 21502, ~~Allegany County Complex, 701 Kelly Road, Cumberland, MD 21502,~~ [INSERT LOCATION].

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(2) Where field surveyed topography or digital topography indicates that ground elevations are below the closest applicable *base flood elevation*, even in areas not delineated as a special flood hazard on the *FIRM*, the area shall be considered as *SFHA*.

(3) To establish *base flood elevations* in *SFHAs* that do not have such elevations shown on the *FIRM*, the *Floodplain administrator* may provide the best available data for *base flood elevations*, may require the applicant to obtain available information from Federal, State or other sources, or may require the applicant to establish *SFHAs* and *base flood elevations* as set forth in sections 8-28(c)(d) and (e) of these regulations.

~~(3) In areas where there are no FEMA mapped floodplains, Allegany County shall utilize supplemental flood studies prepared by Purdum and Jeschke Consulting Engineers and Land Surveyors, dated 1986, as the best available data. The subject studies include the following basins: Fairgo; Tributary to Braddock Run and Triple Lakes; Upper Georges Creek and Warrior Run.~~

(g) *Interpretation.* In the interpretation and application of these regulations, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Notes referencing publications of *FEMA* refer to the most recent edition of those publications, are intended only as guidance, and do not bind or alter the authority of the *Floodplain administrator* to interpret and apply these regulations.

(h) *Warning and disclaimer of liability.*

(1) The degree of *flood* protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and *flood* heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the *SFHAs* or uses that are permitted within such areas will be free from *flood*ing or *flood* damage.

(2) These regulations shall not create liability on the part of the city of ~~Allegany County~~ ~~Allegany County~~, any official, officer or employee thereof, the *Maryland Department of the Environment* (*MDE*) or *FEMA*, for any *flood* damage that results from reliance on these regulations or any administrative decision lawfully made hereunder.

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- (i) *Severability.* Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Sec. - 8-28. Definitions.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted to have the meaning they have in common usage and to give these regulations the most reasonable application.

Accessory structure: A building or *structure* on the same lot with, and of a nature customarily incidental and subordinate to, the principal *structure*. For the purposes of these regulations, an accessory structure shall be used solely for parking of vehicles and limited storage.

Agreement to submit an elevation certificate: A form on which the applicant for a permit to construct a building or *structure*, to construct certain horizontal additions, to place or replace a *manufactured home*, to substantially improve a building, *structure*, or *manufactured home*, agrees to have an *Elevation certificate* prepared by a *licensed* professional engineer or *licensed* professional surveyor, as specified by the *Floodplain administrator*, and to submit the certificate:

- (1) Upon placement of the *lowest floor* and prior to further vertical construction; and
- (2) Prior to the final inspection and issuance of the Certificate of Occupancy.

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Alteration of a watercourse: For the purpose of these regulations, alteration of a watercourse includes, but is not limited to widening, deepening or relocating the channel, including excavation or filling of the channel. Alteration of a watercourse does not include construction of a road, bridge, culvert, dam, or in-stream pond unless the channel is proposed to be realigned or relocated as part of such construction.

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Area of shallow flooding: A designated Zone AO on the *Flood Insurance Rate Map* with a 1-percent annual chance or greater of *flooding* to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of *flooding* is unpredictable, and where velocity flow may be evident; such *flooding* is characterized by ponding or sheet flow.

Base building: The building to which an addition is being added. This term is used in provisions relating to additions.

Base flood: The *flood* having a one-percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the 1-percent annual chance (100-year) *flood*.

Base flood elevation (BFE): The water surface elevation of the *base flood* in relation to the datum specified on the *community's Flood Insurance Rate Map*. In *areas of shallow flooding*, the base flood elevation is the highest adjacent natural grade elevation plus the depth

number specified in feet on the *Flood Insurance Rate Map*, or at least four (4) feet if the depth number is not specified.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Building code(s): ~~Any building code as adopted and amended by Allegany County. The effective Maryland Building Performance Standards (COMAR 05.02.07), including the building code, residential code, and existing building code.~~ The effective Maryland Building Performance Standards (COMAR 05.02.07), including the building code, residential code, and existing building code.

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Community: A political subdivision of the state (county, city or town) that has authority to adopt and enforce floodplain management regulations within its jurisdictional boundaries.

Conditional letter of map revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum *NFIP* requirements for such projects with respect to delineation of *SFHAs*. A *conditional letter of map revision* based on Fill is a determination that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed. A *CLOMR* does not revise the effective *FIRM* or *FIS*; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by *FEMA*, to revise the effective *FIRM*.

Critical and essential facilities: Buildings and other *structures* that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes. [Note: See Maryland Building Performance Standards, Sec. 1602 and Table 1604.5.] *Critical and essential facilities* typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities.

Declaration of land restriction (nonconversion agreement): A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain *enclosures below the lowest floor* of elevated buildings and certain *accessory structures*. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other *structures*, placement of *manufactured homes*, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevation certificate: *FEMA* form on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a *licensed*

professional land surveyor or a *licensed* professional engineer, as specified by the *Floodplain administrator*. When used to document the height above grade of buildings in *SFHAs* for which *BFE* data are not available, the *Elevation certificate* shall be completed in accordance with the instructions issued by *FEMA*. [Note: *FEMA* Form 086-0-33 and instructions are available online at <https://www.FEMA.gov/media-library/assets/documents/160http://www.fema.gov/library/viewRecord.do?id=1383>.]

Enclosure below the lowest floor: An unfinished or *flood-resistant* enclosure that is located below an elevated building, is surrounded by walls on all sides, and is usable solely for parking of vehicles, building access or storage, in an area other than a *basement* area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations. Also see “Lowest Floor.”

Federal emergency management agency (FEMA): The federal agency with the overall responsibility for administering the National Flood Insurance Program.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials: Any construction material that is capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Note: See *NFIP* Technical Bulletin #2, “Flood Damage-Resistant Materials Requirements.”]

Flood insurance rate map (FIRM): An official map on which *FEMA* has delineated *SFHAs* to indicate the magnitude and nature of *flood* hazards, to designate applicable flood zones, and to delineate floodways, if applicable. *FIRMs* that have been prepared in digital format or converted to digital format are referred to as Digital *FIRMs*.

Flood insurance study (FIS): The official report in which *FEMA* has provided *flood* profiles, *floodway* information, and the water surface elevations.

Flood opening: A flood opening (non-engineered) is an opening that is used to meet the prescriptive requirement of one (1) square inch of net open area for every square foot of enclosed area. An engineered flood opening is an opening that is designed and certified by a *licensed* professional engineer or *licensed* architect as meeting certain performance characteristics, including providing automatic entry and exit of floodwaters; this certification requirement may be satisfied by an individual certification for a specific structure or issuance of an Evaluation Report by the ICC Evaluation Service, Inc. [Note: See *NFIP* Technical Bulletin #1, “Openings in Foundation Walls and Walls of Enclosures.”]

Flood protection elevation: The base flood elevation plus ~~one (1) foot~~ two (2) feet of freeboard.

Freeboard is a factor of safety that compensates for uncertainty in factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, climate change, and the hydrologic effect of urbanization in a watershed.

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Flood protection setback: A distance measured perpendicular to the top of bank of a watercourse that delineates an area to be left undisturbed to minimize future flood damage and to recognize the potential for bank erosion. Along nontidal waters of the State, the flood protection setback is:

- (1) A minimum distance of one-hundred (100) feet shall be maintained from the edge of the banks of any watercourse delineated as having a floodplain on the FIRM, except where the setback may extend beyond the floodplain. To prevent erosion, natural vegetation shall be maintained in this area. Where natural vegetation does not exist along the watercourse and conditions for replanting are suitable, high priority shall be given to planting trees in the setback area to stabilize banks and to enhance aquatic resources, if the watercourse has special flood hazard areas shown on the FIRM, except where the setback extends beyond the boundary of the flood hazard area; or
- (2) A minimum distance of fifty (50) feet shall be maintained from top of the bank of any stream which has no designated floodplain and a basin larger than four-hundred (-400) acres, if the watercourse does not have special flood hazard areas shown on the FIRM.
- ~~(2)-(3)~~ A minimum distance of twenty-five (25) feet shall be maintained from centerline from all other streams, drainways, including intermittent streams. Natural vegetation shall be maintained and if needed, trees planted.

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Flood zone: A designation for areas that are shown on FIRM:

- (1) **Zone A:** SFHAs subject to inundation by the 1-percent annual chance (100-year) flood; base flood elevations are not determined.
- (2) **Zone AE and Zone A1-30:** SFHAs subject to inundation by the 1-percent annual chance (100-year) flood; base flood elevations are determined; floodways may or may not be determined.
- (3) **Zone AH and Zone AO:** Areas of shallow flooding, with flood depths of 1 to 3 feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or designated flood depths.
- (4) **Zone B and Zone X (shaded):** Areas subject to inundation by the 0.2-percent annual chance (500-year) flood; areas subject to the 1-percent annual chance (100-year) flood with average depths of less than 1 foot or with contributing

drainage area less than 1 square mile; and areas protected from the *base flood* by levees.

- (5) **Zone C and Zone X (unshaded):** Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, B, and X (shaded). ~~Zone VE and Zone V1-30: Special flood hazard areas subject to inundation by the 1-percent annual chance (100-year) flood and subject to high-velocity wave action.~~

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Floodplain: Any land area susceptible to being inundated by water from any source (see definition of "Flood" or "Flooding").

~~*Floodplain Management Appeals Review Committee:* A panel of representatives who review proposed modifications to the regulations of this chapter. The subject committee is comprised of staff from the Allegany Soil Conservation District, the Maryland Department of the Environment and Allegany County government.~~

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Floodproofing certificate: FEMA form that is to be completed, signed and sealed by a licensed professional engineer or licensed architect to certify that the design of floodproofing and proposed methods of construction are in accordance with the applicable requirements of section 8-30(e)(2) of these regulations. [Note: FEMA Form 086-0-34 is available online at <https://www.FEMA.gov/media-library/assets/documents/2748>~~<http://www.fema.gov/library/viewRecord.do?id=1600>~~.]

Floodway: The channel of a river or other *watercourse* and the adjacent land areas that must be reserved in order to pass the *base flood* discharge such that the cumulative increase in the water surface elevation of the *base flood* discharge is no more than a designated height. When shown on a *FIRM*, the floodway is referred to as the "designated floodway."

~~*Freeboard:* An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, wave actions, subsidence or other unpredictable effects.~~
Freeboard: An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, wave actions, subsidence or other unpredictable effects.

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Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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Highest adjacent grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a *structure*.

Historic structure: Any *structure* that is:

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(1) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on the Maryland Register of Historic Places; or

(2)(4) Individually listed on the inventory of historic places maintained by the city whose historic preservation program has been certified by the Maryland Historical Trust or the Secretary of the Interior.

~~Individually listed on the Maryland Register of Historic Places; or or~~

professional engineer, in accordance with standard engineering practices that are accepted by MDE (Nontidal Wetlands & Waterways) and FEMA, used to determine the *base flood*, other frequency floods, *flood* elevations, *floodway* information and boundaries, and *flood* profiles.

Letter of map change (LOMC): A *Letter of map change* is an official *FEMA* determination, by letter, that amends or revises an effective *FIRM* or *FIS*. Letters of Map Change include:

Letter of map amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated *SFHA*. A *LOMA* amends the current effective *FIRM* and establishes that a specific property or *structure* is not located in a *SFHA*.

Letter of map revision (LOMR): A revision based on technical data that may show changes to *flood zones*, *flood* elevations, *floodplain* and *floodway* delineations, and planimetric features.

Letter of map revision on fill (LOMR-F): An LOMR-F is a determination that a *structure* or parcel of land has been elevated by fill above the *base flood elevation* and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the *community's* floodplain management regulations.

Licensed: As used in these regulations, licensed refers to professionals who are authorized to practice in the state by issuance of licenses by the Maryland Board of Architects, Maryland Board of Professional Engineers, Maryland Board of Professional Land Surveyors, and the Maryland Real Estate Appraisers and Home Inspectors Commission.

~~County Administrator's Designee~~ *Lowest floor:* The lowest floor of the lowest enclosed area (including *basement*) of a building or *structure*; the floor of an *enclosure below the lowest*

floor is not the lowest floor provided the enclosure is constructed in accordance with these regulations. The lowest floor of a *manufactured home* is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).

Manufactured home: A *structure*, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a *recreational vehicle*.

Market value: The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. For the purposes of these regulations, the market value of a building is determined by a *licensed* real estate appraiser or the most recent, full phased-in assessment value of the building (improvement) determined by the Maryland Department of Assessments and Taxation.

Maryland Department of the Environment (MDE): A principal department of the state that is charged with, among other responsibilities, the coordination of the *National Flood Insurance Program* in Maryland (*NFIP State Coordinator*) and the administration of regulatory programs for *development* and construction that occur within the *waters of the state*, including nontidal wetlands, nontidal waters and floodplains, and state and private tidal wetlands (Tidal Wetlands). Unless otherwise specified, “*MDE*” refers to the Department’s Wetlands and Waterways Program.

Mixed-use structure: Any *structure* that is used or intended for use for a mixture of nonresidential and residential uses in the same structure.

National Flood Insurance Program (NFIP): The program authorized by the U.S. Congress in 42 U.S.C. §§4001 - 4129. The *NFIP* makes flood insurance coverage available in communities that agree to adopt and enforce minimum regulatory requirements for *development* in areas prone to *flooding* (see definition of “*SFHA*”).

New construction: *Structures*, including additions and improvements, and the placement of *manufactured homes*, for which the *start of construction* commenced on or after ~~INITIAL FIRM EFFECTIVE DATE~~ February 18, 1981 September 1, 1983 1978, the initial effective date of the ~~COMMUNITY NAME~~ Allegany County city’s *FIRMS*, including any subsequent improvements, alterations, modifications, and additions to such *structures*.

NFIP state coordinator: See *MDE*.

Nontidal waters of the state: See “waters of the state.” As used in these regulations, “nontidal waters of the state” refers to any stream or body of water within the state that is subject to state regulation, including the “100-year frequency *floodplain* of free-flowing waters.” COMAR 26.17.04.01 states that “the landward boundaries of any tidal waters shall be deemed

coterminous with the wetlands boundary maps adopted pursuant to Environment Article, §16-301, Annotated Code of Maryland.” Therefore, the boundary between the tidal and nontidal waters of the state is the tidal wetlands boundary.

Person: An individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

Recreational vehicle: A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area (SFHA): The land in the *floodplain* subject to a one-percent or greater chance of *flooding* in any given year. *SFHAs* are designated by *FEMA* in *Flood Insurance Studies* and on *FIRMs* as Zones A, AE, AH, AO, A1-30, and A99, and Zones VE and V1-30. The term includes areas shown on other flood maps that are identified in section 8-27(e).

Start of construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a *structure* on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a *manufactured home* on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a *basement*, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of *accessory structures*, such as garages or sheds not occupied as dwelling units or not part of the main *structure*. For *substantial improvements*, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: That which is built or constructed; specifically, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a *manufactured home*.

Substantial damage: Damage of any origin sustained by a building or *structure* whereby the cost of restoring the building or *structure* to its before damaged condition would equal or exceed 50 percent of the *market value* of the building or *structure* before the damage occurred. Also used as “substantially damaged” structures. [Note: See “Substantial Improvement/Substantial Damage Desk Reference” (*FEMA* P-758).]~~[SELECT ONE ALTERNATIVE DEFINITION FOR SUBSTANTIAL IMPROVEMENT AND DELETE THE OTHER. SECTION 4.6 AND PARAGRAPH 7.2(D) WILL NEED TO MATCH THE SELECTED ALTERNATIVE.]~~

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a building or *structure*, the cost of which equals or exceeds 50 percent of the *market value* of the building or *structure* before the *start of construction* of the improvement. The term includes *structures* which have incurred *substantial damage*, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a building or *structure* to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official prior to submission of an application for a permit and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a *historic structure*, provided that the alteration will not preclude the *structure*'s continued designation as a *historic structure*.

[Note: See "Substantial Improvement/Substantial Damage Desk Reference" (FEMA P-758).]

Temporary structure: A *structure* installed, used, or erected for a period of less than 180 days.

Variance: A grant of relief from the strict application of one or more requirements of these regulations.

Violation: Any construction or *development* in a *SFHA* that is being performed without an issued permit. The failure of a building, *structure*, or other *development* for which a permit is issued to be fully compliant with these regulations and the conditions of the issued permit. A building, *structure*, or other *development* without the required design certifications, the *Elevation certificate*, or other evidence of compliance required is presumed to be a *violation* until such time as the required documentation is provided.

Watercourse: The channel, including channel banks and bed, of *nontidal waters of the state*.

Waters of the state: [See Environment Article, Title 5, Subtitle 1, Annotated Code of Maryland.] *Waters of the state* include:

- (1) Both surface and underground waters within the boundaries of the state subject to its jurisdiction;
- (2) That portion of the Atlantic Ocean within the boundaries of the state;
- (3) The Chesapeake Bay and its tributaries;
- (4) All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the state, other than those designed and used to collect, convey, or dispose of sanitary sewage; and

Commented [kgw7]: The existing County floodplain ordinance follows the "definition method" for handling substantial improvements to historic structures. See <https://ecode360.com/14698561>. If the County would like to change to the "variance method", change this definition and Sections 4.6 and 7.2.

- (5) The *floodplain* of free-flowing waters determined by *MDE* on the basis of the 100-year *flood* frequency.

Sec. 8-28 - Administration.

- (a) *Designation of the floodplain administrator.* The ~~Director of Planning & Growth~~ city engineer or their designee is hereby appointed to administer and implement these regulations and is referred to herein as the *floodplain administrator*. The *floodplain administrator* may:
 - (1) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
 - (2) Enter into a written agreement or written contract with another Maryland *community* or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the *community* of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.
- (b) *Duties and responsibilities of the floodplain administrator.* The duties and responsibilities of the *floodplain administrator* shall include but are not limited to:
 - (1) Review applications for permits to determine whether proposed activities will be located in flood hazard areas.
 - (2) Interpret *floodplain* boundaries and provide available *base flood elevation* and *flood* hazard information.
 - (3) Review applications to determine whether proposed activities will be reasonably safe from *flooding* and require *new construction* and *substantial improvements* to meet the requirements of these regulations.
 - (4) Review applications to determine whether all necessary permits have been obtained from the federal, state or local agencies from which prior or concurrent approval is required; in particular, permits from *MDE* for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, *structures*), any *alteration of a watercourse*, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency *floodplain* of free-flowing *nontidal waters of the state*.
 - (5) Verify that applicants proposing an *alteration of a watercourse* have notified adjacent communities and *MDE (NFIP State Coordinator)*, and have submitted copies of such notifications to *FEMA*.

- (6) Approve applications and issue permits to develop in *flood* hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (7) Inspect or cause to be inspected, buildings, *structures*, and other *development* for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or *violations* have been committed.
- (8) Review *Elevation certificates* and require incomplete or deficient certificates to be corrected.
- (9) Submit to *FEMA*, or require applicants to submit to *FEMA*, data and information necessary to maintain *FIRMs*, including *hydrologic and hydraulic engineering analyses* prepared by or for the ~~[COMMUNITY NAME]~~ Allegany County the city, within six (6) months after such data and information becomes available if the analyses indicate changes in *base flood elevations* or boundaries.
- (10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (A) *Flood Insurance Studies, FIRMs* (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - (B) Documentation supporting issuance and denial of permits, *Elevation certificates*, documentation of the elevation (in relation to the datum on the *FIRM*) to which *structures* have been *floodproofed*, other required design certifications, *variances*, and records of enforcement actions taken to correct *violations* of these regulations.
- (11) Enforce the provisions of these regulations, investigate *violations*, issue notices of *violations* or stop work orders, and require permit holders to take corrective action.
- (12) Advise the ~~[BODY DESIGNATED TO HEAR VARIANCES]~~ Board of Zoning Appeals ~~Floodplain Management Variance Review Committee~~ Board of Zoning Appeals regarding the intent of these regulations and, for each application for a *variance*, prepare a staff report and recommendation.
- (13) Administer the requirements related to proposed work on existing buildings:
 - (A) Make determinations as to whether buildings and *structures* that are located in *flood* hazard areas and that are damaged by any cause have been *substantially damaged*.

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- (B) Make reasonable efforts to notify owners of *substantially damaged structures* of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of *substantially damaged* buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or *structure* to prevent additional damage.
- (14) Undertake, as determined appropriate by the *Floodplain administrator* due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged *structures*; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged *structures* information related to the proper repair of damaged *structures* in *SFHAs*; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance (ICC) coverage under *NFIP* flood insurance policies.
- (15) Notify *FEMA* when the corporate boundaries of ~~the [COMMUNITY NAME]~~Allegany County the city have been modified and:
- (A) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - (B) If the *FIRM* for any annexed area includes *SFHAs* that have *flood zones* that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the *FIRM* and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place within six months of the date of annexation and a copy of the amended regulations shall be provided to *MDE (NFIP State Coordinator)* and *FEMA*.
- (16) Upon the request of *FEMA*, complete and submit a report concerning participation in the *NFIP* which may request information regarding the number of buildings in the *SFHA*, number of permits issued for *development* in the *SFHA*, and number of *variances* issued for *development* in the *SFHA*.

(c) *Use and interpretation of FIRMs.*

(1) The *floodplain administrator* shall make interpretations, where needed, as to the exact location of *SFHAs*, *floodplain* boundaries, and *floodway* boundaries. The following shall apply to the use and interpretation of *FIRMs* and data:

- (A) Where field surveyed topography indicates that ground elevations:
 - (i) Are below the *base flood elevation*, even in areas not delineated as a *SFHA* on a *FIRM*, the area shall be considered as *SFHA* and subject to the requirements of these regulations;
 - (ii) Are above the *base flood elevation*, the area shall be regulated as *SFHA* unless the applicant obtains a *Letter of map change* that removes the area from the *SFHA*.
- (B) In *FEMA*-identified *SFHAs* where *base flood elevation* and *floodway* data have not been identified and in areas where *FEMA* has not identified *SFHAs*, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
- (C) *Base flood elevations* and designated *floodway* boundaries on *FIRMs* and in *FISs* shall take precedence over *base flood elevations* and *floodway* boundaries by any other sources if such sources show reduced *floodway* widths and/or lower *base flood elevations*.
- (D) Other sources of data shall be reasonably used if such sources show increased *base flood elevations* and/or larger *floodway* areas than are shown on *FIRMs* and in *FISs*.

(2) *Letter of final determination.*

- A. If a preliminary *FIRM* and/or a preliminary *FIS* have been provided by *FEMA*, upon the issuance of a Letter of Final Determination by *FEMA*, if the preliminary flood hazard data is more restrictive than the effective data, it shall be used and shall replace the flood hazard data previously provided from *FEMA* for the purposes of administering these regulations.
- B. Prior to the issuance of a Letter of Final Determination by *FEMA*, the use of preliminary flood hazard data shall be deemed the best available data pursuant to section 8-27(e)(3) and used where no *base flood elevations* and/or *floodway* areas are provided on the effective *FIRM*.
- C. Prior to issuance of a Letter of Final Determination by *FEMA*, the use of preliminary flood hazard data is permitted where the preliminary *base*

flood elevations, floodplain or floodway boundaries exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal.

(d) *Permits required and expiration.*

- (1) It shall be unlawful for any *person* to begin any *development* or construction which is wholly within, partially within, or in contact with any flood hazard area established in section 8-27(e), including but not limited to: filling; grading; construction of new *structures*; the *substantial improvement* of buildings or *structures*, including repair of *substantial damage*; placement or replacement of *manufactured homes*, including *substantial improvement* or repair of *substantial damage* of *manufactured homes*; erecting or installing a *temporary structure*, or *alteration of a watercourse*, until a permit is obtained from the ~~[COMMUNITY NAME]~~ *Allegany County* the city. No such permit shall be issued until the requirements of these regulations have been met.
- (2) In addition to the permits required in paragraph (1) of this subsection, applicants for permits in *nontidal waters of the state* are advised to contact *MDE*. Unless waived by *MDE*, pursuant to Code of Maryland Regulations 26.17.04, Construction on Nontidal Waters and Floodplains, *MDE* regulates the “100-year frequency floodplain of free-flowing waters,” also referred to as *nontidal waters of the state*. To determine the 100-year frequency floodplain, hydrologic calculations are based on the ultimate *development* of the watershed, assuming existing zoning. The resulting flood hazard areas delineated using the results of such calculations may be different than the *SFHAs* established in section 8-27(e) of these regulations. A permit from ~~[COMMUNITY NAME]~~ *Allegany County* the city is still required in addition to any state requirements.
- (3) A permit is valid provided the actual start of work is within 180 days of the date of permit issuance. Requests for extensions shall be submitted in writing and justifiable cause demonstrated. The *Floodplain administrator* may grant, in writing, one or more extensions of time, for additional periods not exceeding 90 days each and provided there has been no amendment or revision to the basis for establishing *SFHAs* and *BFEs* set forth in section 8-27(e).

(e) *Application Required.* Application for a permit shall be made by the owner of the property or the owner's authorized agent (herein referred to as the applicant), prior to the start of any work. The application shall be on a form furnished for that purpose.

(1) *Application Contents.* At a minimum, applications shall include:

(A) Name, address, and phone number of the applicant (the owner or agent of the owner).

(B) Name, address, and phone number of the owner, (if different).

(C) Name, address, and phone number of the contractor.

(D) Site plans drawn to scale showing the nature, location, dimensions, and existing and proposed topography of the area in question, and the location of existing and proposed structures, excavation, filling, storage of materials, drainage facilities, utilities and other proposed activities.

(E) Elevation of the existing natural ground where buildings or structures are proposed, referenced to the datum on the FIRM.

(F) Delineation of flood hazard areas, designated floodway boundaries, flood zones, base flood elevations, and flood protection setbacks. Base flood elevations shall be used to delineate the boundary of flood hazard areas and such delineations shall prevail over the boundary of SFHAs shown on FIRMs.

(G) Where floodways are not delineated or base flood elevations are not shown on the FIRMs, the Floodplain administrator has the authority to require the applicant to use information provided by the Floodplain administrator, information that is available from federal, state, or other sources, or to determine such information using accepted engineering practices or methods approved by the Floodplain administrator. [Note: See "Managing Floodplain Development in Approximate Zone A Areas: A Guide for Obtaining and Developing Base (100-Year) Flood Elevations" (FEMA 265).]

(H) Determination of the base flood elevations, for development and subdivision proposals and subdivision proposals, each with at least five (5) lots or at least five (5) acres, whichever is the lesser, in SFHAs where base flood elevations are not shown on the FIRM; if hydrologic and hydraulic engineering analyses are submitted, such analyses shall

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be performed in accordance with the requirements and specifications of *MDE* and *FEMA*.

~~(G)~~(I) *Hydrologic and hydraulic engineering analyses* for proposals in *SFHAs* where *FEMA* has provided *base flood elevations* but has not delineated a *floodway*; such analyses shall demonstrate that the cumulative effect of proposed *development*, when combined with all other existing and anticipated development will not increase the water surface elevation of the *base flood* by more than one foot, or a lower increase if required by *MDE*.

~~(G)~~(J) For encroachments in *floodways*, an evaluation of alternatives to such encroachments, including different uses of the site or portion of the site within the *floodway*, and minimization of such encroachment.

~~(H)~~(K) If fill is proposed to be placed for a purpose other than to elevate *structures*, the applicant shall indicate the intended purpose for the fill.

~~(H)~~(L) For proposed buildings and *structures*, including *substantial improvement* and repair of *substantial damage*, and placement and replacement of manufactured homes, including *substantial improvement* and repair of *substantial damage*:

- (i) The proposed elevation of the *lowest floor*, including *basement*, referenced to the datum on the *FIRM* and a signed *Agreement to Submit an Elevation certificate*.
- (ii) The signed *Declaration of Land Restriction (Nonconversion Agreement)* that shall be recorded on the property deed prior to issuance of the ~~Certificate of Occupancy~~ Land Use Permit ~~Certificate of Occupancy~~, if the application includes an *enclosure below the lowest floor* or a crawl/underfloor space that is more than four (4) feet in height.
- (iii) A written evaluation of alternative methods considered to elevate *structures* and *manufactured homes*, if the location is in *nontidal waters of the state* and fill is proposed to achieve the elevation required in section 8-30(d)(1) or section 8-30(e)(1).

~~(I)~~(M) For accessory *structures* ~~30 feet or less in height and 60 square feet in area (footprint) and that do not have a flood elevation variance required as set forth in Section 7-01(a)(4) and are not required to be elevated~~
A signed Declaration of Land Restriction (Nonconversion Agreement)

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shall be recorded on the property deed, prior to issuance of the Land Use Permit, Certificate of Occupancy

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~~(K)~~(N) For *temporary structures* and temporary storage, specification of the duration of the temporary use.

~~(L)~~(O) For proposed work on existing buildings, *structure*, and *manufactured homes*, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes *substantial improvement* or repair of *substantial damage*, including but not limited to:

- (i) If the existing building or *structure* was constructed after ~~(DATE OF REGULAR PROGRAM ENTRY)~~ February 18, 1981 ~~September 1, 1983~~ 1978, evidence that the work will not alter any aspect of the building or *structure* that was required for compliance with the floodplain management requirements in effect at the time the building or *structure* was permitted.
- (ii) If the proposed work is a horizontal addition, a description of the addition and whether it will be independently supported or structurally connected to the *base building* and the nature of all other modifications to the *base building*, if any.
- (iii) Documentation of the *market value* of the building or *structure* before the improvement or, if the work is repair of damage, before the damage occurred.
- (iv) Documentation of the actual cash value of all proposed work, including the actual cash value of all work necessary to repair and restore damage to the before-damaged condition, regardless of the amount of work that will be performed. The value of work performed by the owner or volunteers shall be valued at market labor rates; the value of donated or discounted materials shall be valued at market rates.

~~(M)~~(P) Certifications and/or technical analyses prepared or conducted by a *licensed* professional engineer or *licensed* architect, as appropriate, including:

- (i) The determination of the *base flood elevations* or *hydrologic and hydraulic engineering analyses* prepared by a *licensed* professional engineer that are required by the *Floodplain administrator* or are required by these regulations in: section 8-29(b) for certain

subdivisions and *development*; section 8-30(c)(1) for *development* in designated *floodways*; section 8-30(c)(3) for *development* in flood hazard areas with *base flood elevations* but no designated *floodways*; and section 8-30(c)(5) for deliberate alteration or relocation of *watercourses*.

- (ii) The *Floodproofing Certificate* for nonresidential *structures* that are *floodproofed* as required in section 8-30(b)
- (iii) Certification that engineered *flood openings* are designed to meet the minimum requirements of section 28-30(d)(3)(C) to automatically equalize hydrostatic flood forces.

~~(N)(O)~~ For nonresidential *structures* that are proposed with *floodproofing*, an operations and maintenance plan as specified in section 8-30(e)(2)(C).

~~(O)(R)~~ Such other material and information as may be requested by the *Floodplain administrator* and necessary to determine conformance with these regulations.

(2) *New technical data.*

- (A) The applicant may seek a *Letter of map change* by submitting new technical data to *FEMA*, such as base maps, topography, and engineering analyses to support revision of *floodplain* and *floodway* boundaries and/or *base flood elevations*. Such submissions shall be prepared in a format acceptable to *FEMA* and any fees shall be the sole responsibility of the applicant. A copy of the submittal shall be attached to the application for a permit.
- (B) If the applicant submits new technical data to support any change in *floodplain* and designated *floodway* boundaries and/or *base flood elevations* but has not sought a *Letter of map change* from *FEMA*, the applicant shall submit such data to *FEMA* as soon as practicable, but not later than six months after the date such information becomes available. Such submissions shall be prepared in a format acceptable to *FEMA* and any fees shall be the sole responsibility of the applicant.

(f) *Review of application.* The *floodplain administrator* shall:

- (1) Review applications for *development* in *SFHAs* to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information that is required to support the application.

- (2) Notify applicants that permits from *MDE* and the U.S. Army Corps of Engineers, and other state and federal authorities may be required.
- (3) Review all permit applications to assure that all necessary permits have been received from the federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including permits issued by:
 - (A) The U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act;
 - (B) *MDE* pursuant to COMAR 26.23 (Nontidal Wetlands) -and section 401 of the Clean Water Act;
 - (C) *MDE* for construction on *nontidal waters of the State* pursuant to COMAR 26.17.04.
- (4) Review applications for compliance with these regulations after all information required in section 8-28(e) of these regulations or identified and required by the *floodplain administrator* has been received.
- (g) *Inspections.* The *floodplain administrator* shall make periodic inspections of development permitted in *SFHAs*, at appropriate times throughout the period of construction in order to monitor compliance. Such inspections may include:
 - (1) Stake-out inspection, to determine location on the site relative to the flood hazard area and designated *floodway*.
 - (2) Foundation inspection, upon placement of the *lowest floor* and prior to further vertical construction, to collect information or certification of the elevation of the *lowest floor*.
 - (3) Inspection of *enclosures below the lowest floor*, including crawl/underfloor spaces, to determine compliance with applicable provisions.
 - (4) Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the *base flood elevation*.
 - (5) Final inspection prior to issuance of the Certificate of Occupancy.
- (h) *Submissions required prior to final inspection.* Pursuant to the *agreement to submit an elevation certificate* submitted with the application as required in section 8-28(e)(1)(I), the permittee shall have an *elevation certificate* prepared and submitted prior to final inspection and issuance of a Certificate of Occupancy for elevated *structures* and *manufactured homes*, including new *structures* and *manufactured*

homes, substantially-improved structures and manufactured homes, and additions to structures and manufactured homes.

Sec. 8-29 - Requirements in all flood hazard areas.

- (a) *Application of Requirements.* The general requirements of this section apply to all development proposed within all *SFHAs* identified in section 8-27(e).
- (b) *Subdivision ~~Proposals~~ and development proposals.*
 - (1) In all *flood zones*:
 - (A) Subdivision ~~proposals~~ and *development* proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
 - (B) Subdivision ~~proposals~~ and *development* proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - (C) Subdivision ~~proposals~~ and *development* proposals shall have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed *structures*.
 - (D) Subdivision ~~proposals~~ and *development* proposals containing at least 5 lots or at least 5 acres, whichever is the lesser, that are wholly or partially in flood hazard areas where *base flood elevation* data are not provided by the *Floodplain administrator* or available from other sources, shall be supported by determinations of *base flood elevations* as required in section 8-28(e) of these regulations.
 - (E) Subdivision access roads shall have the driving surface at or above the *base flood elevation*.
 - (2) In *SFHAs* of *nontidal waters of the state*:
 - (A) Subdivision proposals shall be laid out such that proposed building pads are located outside of the *SFHA* and any portion of platted lots that include land areas that are below the *base flood elevation* shall be used for other purposes, deed restricted, or otherwise protected to preserve it as open space.
 - (B) Subdivision access roads shall have the driving surface at or above the *base flood elevation*.
- (c) *Protection of water supply and sanitary sewage systems.*

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- (1) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
 - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
 - (3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of *flooding*.
- (d) *Buildings and structures.* New buildings and *structures* (including the placement and replacement of *manufactured homes*) and *substantial improvement* of existing *structures* (including *manufactured homes*) that are located, in whole or in part, in any *SFHA* shall:
- (1) Be designed (or modified) and constructed to safely support flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. *Structures* shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses, including hydrodynamic and hydrostatic loads and the effects of buoyancy, from *flooding* equal to the *flood protection elevation* or the elevation required by these regulations or the *building code*, whichever is higher.
 - (2) Be constructed by methods and practices that minimize flood damage.
 - (3) Use *flood damage-resistant materials* below the elevation of the *lowest floor* required in section 8-30(d)(1) or section 8-30(e)(1).
 - (4) Have electrical systems, equipment and components, and mechanical, heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the elevation of the *lowest floor* required in section 8-30(d)(1) or section 8-30(e)(1). Electrical wiring systems are permitted to be located below elevation of the *lowest floor* provided they conform to the provisions of the electrical part of the *building code* for wet locations. If replaced as part of a *substantial improvement*, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this section.
 - (5) As an alternative to subsection (4) above, electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the *lowest floor* provided they

are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to that elevation.

- (6) Have the electric panelboard elevated at least three (3) feet above the *BFEL*.
- (7) Comply with the specific requirements of section 8-30.
- (8) Comply with the requirements of the most restrictive designation if located on a site that has more than one *flood zone* designation (A Zone, designated *floodway*).

~~(e)~~(f) Placement of fill.

- (1) Disposal of fill, including but not limited to earthen soils, rock, rubble, construction debris, woody debris, and trash, shall not be permitted in *SFHAs*.
- (2) Fill proposed to be placed to elevate *structures* in flood hazard areas shall comply with the *floodways* requirements in section 8-30(c)(1), section 8-30(c)(2), and section 8-30(c)(3) and the limitations of section 8-30(d)(2).

- (g) ~~Improvement of historic structures shall be subject to the requirements of these regulations if the proposed work is determined to be a substantial improvement, unless a determination is made that the proposed work will not preclude the structure's continued designation as a historic structure. The Floodplain administrator may require documentation of a structure's continued eligibility and designation as a historic structure.~~

(h) *Manufactured homes.*

- (1) New *manufactured homes* shall not be placed or installed in *floodways*.
- (2) For the purpose of these regulations, the *lowest floor* of a *manufactured home* is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam).
- (3) New *manufactured homes* located outside of *floodways*, replacement *manufactured homes* in any flood hazard areas, and *substantial improvement* (including repair of *substantial damage*) of existing *manufactured homes* in all flood hazard area, shall:
 - (1) Be elevated on a permanent, reinforced foundation in accordance with section 8-30;

- (2) Be installed in accordance with the anchor and tie-down requirements of the *building code* or the manufacturer's written installation instructions and specifications; and
- (3) Have *enclosures below the lowest floor* of the elevated *manufactured home*, if any, including enclosures that are surrounded by rigid skirting or other material that is attached to the frame or foundation, that comply with the requirements of section 8-30.

[Note: See "Protecting Manufactured Homes from Floods and Other Hazards: A Multi-Hazard Foundation and Installation Guide" (FEMA P-85).]

(i) *Recreational vehicles.*

(1) ~~Meet the requirements for manufactured homes in Section 4.7; or~~ Recreational vehicles temporarily parked within the floodplain may be exempted from the elevation and anchoring requirements, provided that they are:

(A) ~~Located on the site less than 180 consecutive days; and~~

(B) ~~Fully licensed and ready for highway use.~~

(2) ~~A recreational vehicle is ready for highway use if it is on its wheels and jacking system, is attached to the site only by quick-disconnect type utilities and securing devices and has no permanently attached additions. If it cannot meet all of these criteria, the recreational vehicle must be considered a manufactured home and is subject to the elevation and construction standards of this chapter. Be fully licensed and ready for highway use. Be on a site for less than 180 consecutive days.~~

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(j) *Critical and essential facilities. Critical and essential facilities shall:*

- (1) Not be located in *floodways*; or
- (2) If located in flood hazard areas other than *floodways*, be elevated to the higher of elevation required by these regulations plus one (1) foot, the elevation required by the *building code*, or the elevation of the 0.2 percent chance (500-year) flood.

- (k) *Temporary structures and temporary storage.* In addition to the application requirements of section 8-28(e), applications for the placement or erection of *temporary structures* and the temporary storage of any goods, materials, and equipment, shall specify the duration of the temporary use. *Temporary structures* and temporary storage in *floodways* shall meet the limitations of section 8-30(c)(1) of these regulations. In addition:

(1) *Temporary structures* shall:

- (A) Be designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic loads and hydrostatic loads during conditions of the *base flood*;
- (B) Have electric service installed in compliance with the electric code; and
- (C) Comply with all other requirements of the applicable state and local permit authorities.

(2) Temporary storage shall not include hazardous materials.

(l) *Gas or liquid storage tanks.*

- (1) Underground tanks in flood hazard areas shall be anchored according to acceptable engineering practices to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.
- (2) Above-ground tanks in flood hazard areas shall be anchored to a supporting structure and elevated to or above the *base flood elevation*, or shall be anchored according to acceptable engineering practices or otherwise designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.
- (3) In flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
 - (A) At or above the *base flood elevation* or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the *base flood*; and
 - (B) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the *base flood*.

(l) *Functionally dependent uses.* Applications for *functionally dependent uses* that do not conform to the requirements of these regulations shall be approved only by

variances issued pursuant to section 8-32. If approved, *functionally dependent uses* shall be protected by methods that minimize flood damage during the *base flood*, including measures to allow floodwaters to enter and exit, use of *flood damage-resistant materials*, and elevation of electric service and equipment to the extent practical given the use of the building.

Sec. 8-30 – Requirements in flood hazard areas.

- (a) *General requirements.* In addition to the general requirements of section 8-29(a), the requirements of this section shall:
 - (1) Apply in flood hazard areas, including *SFHAs* along *nontidal waters of the state*.
 - (2) Apply to all *development, new construction, substantial improvements* (including repair of *substantial damage*), and placement, replacement, and *substantial improvement* (including repair of *substantial damage*) of *manufactured homes*.
- (b) *Flood protection setbacks.* Within areas defined by *flood protection setbacks* along *nontidal waters of the state*:
 - (1) No new buildings, *structures*, or other *development* shall be permitted unless the applicant demonstrates that the site cannot be developed without such encroachment into the *flood protection setback* and the encroachment is the minimum necessary after consideration of varying other siting standards such as side, front, and back lot line setbacks.
 - (2) Disturbance of natural vegetation shall be minimized and any disturbance allowed shall be ~~vegetatively~~ stabilized.
 - (3) Public works and temporary construction may be permitted.
- (c) Development that *affects flood-carrying capacity of nontidal waters of the state*.
 - (1) *Development in designated floodways.* For proposed *development* that will encroach into a designated *floodway*, section 8-28(e)(1)(g) requires the applicant to submit an evaluation of alternatives to such encroachment, including different uses of the site or the portion of the site within the *floodway*, and minimization of such encroachment. This requirement does not apply to fences that do not block the flow of floodwaters or trap debris.

Proposed *development* in a designated *floodway* may be permitted only if:

 - (A) The applicant has been issued a permit by *MDE*; and

- (B) The applicant has developed *hydrologic and hydraulic engineering analyses* and technical data prepared by a *licensed* professional engineer reflecting such changes, and the analyses, which shall be submitted to the *Floodplain administrator*, demonstrate that the proposed activity will not result in any increase in the *base flood elevation*; or
 - (C) If the analyses demonstrate that the proposed activities will result in an increase in the *base flood elevation*, the applicant has obtained a Conditional Letter of Map Revision and a Letter of Map Revision from *FEMA* upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.
- (2) *Development that includes the placement of fill in nontidal waters of the state.* For proposed *development* that includes the placement of fill in *nontidal waters of the state*, other than *development* that is subject to subsection (c)(4) below, a hydraulically-equivalent volume of excavation is required. Such excavations shall be designed to drain freely.
- (3) *Development in areas with base flood elevations but no designated floodways.* For *development* in *SFHAs of nontidal waters of the state with base flood elevations* but no designated *floodways*:
- (A) The applicant shall develop *hydrologic and hydraulic engineering analyses* and technical data reflecting the proposed activity and shall submit such technical data to the *Floodplain administrator*, as required in Section 8-28(e)(1)(F). The analyses shall be prepared by a *licensed* professional engineer in a format required by *FEMA* for a Conditional Letter of Map Revision and a Letter of Map Revision upon completion of the project. Submittal requirements and fees shall be the responsibility of the applicant.
 - (B) The proposed *development* may be permitted if the applicant has received a permit by *MDE* and if the analyses demonstrate that the cumulative effect of the proposed *development*, when combined with all other existing and potential flood hazard area encroachments, will not increase the *base flood elevation* more than one (1)~~0~~ foot at any point.
- (4) *Construction of roads, bridges, culverts, dams and in-stream ponds.* Construction of roads, bridges, culverts, dams, and in-stream ponds in *nontidal waters of the state* shall not be approved unless they comply with this section and the applicant has received a permit from *MDE*.
- (5) *Alteration of a watercourse.* For any proposed *development* that involves *alteration of a watercourse* not subject to subsection (c)(3) above, unless

Alteration of a watercourse may be permitted only upon submission, by the applicant, of the following:

- (d) *Residential structures and residential portions of ~~Mixed Use~~ mixed-use structures.* New residential *structures* and residential portions of ~~mixed use~~ mixed-use structures, and *substantial improvement* (including repair of *substantial damage*) of existing residential *structures* and residential portions of ~~mixed use~~ mixed-use structures shall comply with the applicable requirements of section 8-29(a) and this section. See **Section 5.6** for requirements for horizontal additions.

(A) *Lowest floors* shall be elevated to or above the *flood protection elevation*.

(B) In *areas of shallow flooding* (Zone AO), the *lowest floor* (including *basement*) shall be elevated at least as high above the *highest adjacent*

30

grade as the depth number specified in feet on the *FIRM* plus two (2) feet, or at least four (4) feet if a depth number is not specified.

Commented [m14]: RS thinks this should be 1 foot?

(C) Enclosures below the lowest floor shall meet the requirements of paragraph (C).

~~(D)~~ Basement floors that are below grade on all sides are prohibited.

(2) *Limitations on use of fill to elevate structures.* Unless otherwise restricted by these regulations, especially by the limitations in sections 8-30(c)(1)-(3), fill placed for the purpose of raising the ground level to support a building or structure shall:

~~(A)~~ Consist of earthen soil or rock materials only. Dredged material may be used as fill only upon certificate of suitability by a registered professional geotechnical engineer.

(B) Extend laterally from the building footprint to provide for adequate access as a function of use; the *Floodplain administrator* may seek advice from the state Fire Marshal's Office and/or the local fire services agency;

(C) Comply with the requirements of the *building code* and be placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling;

(D) Be sloped no steeper than one (1) vertical to two (2) horizontal, unless approved by the *Floodplain administrator*;

(E) Be protected from erosion associated with expected velocities during the occurrence of the *base flood*; unless approved by the *Floodplain administrator*, fill slopes shall be protected by vegetation if the expected velocity is less than five (5) feet per second, and by other means if the expected velocity is five (5) feet per second or more; and

~~(F)~~ Be designed with provisions for adequate drainage and no adverse effect on adjacent properties.

~~(F)~~ (G) In the event buildings on adjacent properties are known or determined to be subject to flooding under current conditions, the Floodplain administrator may require submission of hydrologic and hydraulic analyses to adequately demonstrate the effects of the proposed fill.

(3) *Enclosures below the lowest floor.*

(A) *Enclosures below the lowest floor* shall be used solely for parking of vehicles, building access, crawl/underfloor spaces, or limited storage.

(B) *Enclosures below the lowest floor* shall be constructed using *flood damage-resistant materials*.

(C) *Enclosures below the lowest floor* shall be provided with *flood openings* which shall meet the following criteria: -[Note: See *NFIP* Technical Bulletin #1, "Openings in Foundation Walls and Walls of Enclosures."]

(i) There shall be a minimum of two ~~(2)~~ *flood openings* on different sides of each enclosed area; if a building has more than one ~~(1)~~ *enclosure below the lowest floor*, each such enclosure shall have *flood openings* on exterior walls.

(ii) The total net area of all *flood openings* shall be at least ~~one (1)~~ square inch for each square foot of enclosed area (non-engineered *flood openings*), or the *flood openings* shall be engineered *flood openings* that are designed and certified by a *licensed* professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.

(iii) The bottom of each *flood opening* shall be ~~one (1)~~ foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.

(iv) Any louvers, screens or other covers for the *flood openings* shall allow the automatic flow of floodwaters into and out of the enclosed area.

(v) If installed in doors, *flood openings* that meet requirements of paragraphs (i) through (iv), are acceptable; however, doors without installed *flood openings* do not meet the requirements of this section.

(e) *Nonresidential structures and nonresidential portions of* ~~Mixed-Use~~ *mixed-use structures. New nonresidential structures and nonresidential portions of* ~~mixed use~~ *mixed-use structures, and substantial improvement (including repair of substantial damage) of existing nonresidential structures and nonresidential portions of* ~~mixed-use~~ *mixed-use structures shall comply with the applicable requirements of section 8-29(a) and the requirements of this section. See section 8-30(e) for requirements for horizontal additions.*

(1) *Elevation requirements. Elevated structures shall:*

Commented [kgw16]: What's the edit? If was "mixed-use" structure and still is "mixed-use" structure.

- (A) Have the *lowest floor* (including *basement*) elevated to or above the *flood protection elevation*; or
- (B) In *areas of shallow flooding* (Zone AO), have the *lowest floor* (including *basement*) elevated at least as high above the *highest adjacent grade* as the depth number specified in feet on the *FIRM* plus two (2) feet, or at least four (4) feet- if a depth number is not specified; and
- (C) Have *enclosures below the lowest floor*, if any, that comply with the requirements of section 8-30(d)(3); or
- (D) If proposed to be elevated on fill, meet the limitations on fill in section 8-30(d)(2)

~~(D)~~(E) Basement floors that are below grade on all sides are prohibited.

(2) *Floodproofing requirements.*

- (A) *Floodproofing* of new nonresidential buildings is not allowed in *nontidal waters of the state* (COMAR 26.17.04.11(B)(7)).
- (B) *Floodproofing* for *substantial improvement* of nonresidential buildings is allowed in *nontidal waters of the state*.
- (C) If *floodproofing* is proposed, *structures* shall:
 - (i) Be designed to be *dry floodproofed* such that the building or *structure* is watertight with walls and floors substantially impermeable to the passage of water to the level of the *flood protection elevation* plus one (1) 1.0 foot~~;~~ or
 - (ii) If located in an *area of shallow flooding* (Zone AO), be *dry floodproofed* at least as high above the *highest adjacent grade* as the depth number specified on the *FIRM* plus three (3) feet, or at least ~~five (5)~~four (4) feet if a depth number is not specified; and
 - (iii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - (iv) Have *floodproofing* measures that are designed taking into consideration the nature of flood-related hazards; frequency, depth and duration of *flooding*; rate of rise and fall of floodwater; soil characteristics; flood-borne debris; at least 12 hours of flood

Commented [m17]: Match freeboard requirement or just 1 foot?

Commented [m18]: Match freeboard requirement or something else? Need to know rationale.

warning time from a credible source; and time necessary to implement any measures that require human intervention;

- (v) Have at least one (1) door above the applicable flood elevation that allows human ingress and egress during conditions of *flooding*;
- (vi) Have an operations and maintenance plan that is filed with local emergency management officials and that specifies the owner/occupant's responsibilities to monitor flood potential; the location of any shields, doors, closures, tools, or other goods that are required for implementation; maintenance of such goods; methods of installation; and periodic inspection; and
- (vii) Be certified by a *licensed* professional engineer or *licensed* architect, through execution of a *Floodproofing Certificate* that states that the design and methods of construction meet the requirements of this section. The *Floodproofing Certificate* shall be submitted with the construction drawings as required in section 8-28(e)(1)(M).

Commented [kgw19]: Is "operations and maintenance plan" supposed to be defined? It's in italics suggesting it's a definition like the rest of the ordinance.

(e) *Horizontal additions.*

- (1) A horizontal addition proposed for a building or *structure* that was constructed after the date specified in section 8-27(a) shall comply with the applicable requirements of 8-29(a) and this section.
- (2) In *nontidal waters of the state* that are subject to the regulatory authority of *MDE*, all horizontal additions shall comply with the applicable requirements of **8-29(a)**, ~~and~~ this section, and:
 - (A) If the addition is structurally connected to the *base building*, the requirements of subsection (3) below apply.
 - (B) If the addition has an independent foundation and is not structurally connected to the *base building* and the common wall with the *base building* is modified by no more than a doorway, the *base building* is not required to be brought into compliance.
- (3) For horizontal additions that are structurally connected to the *base building*:
 - (A) If the addition combined with other proposed repairs, alterations, or modifications of the *base building* constitutes *substantial improvement*, the *base building* and the addition shall comply with the applicable requirements of 8-29(a) and this section.

- (B) If the addition constitutes *substantial improvement*, the *base building* and the addition shall comply with all of the applicable requirements of 8-29(a) and this section.
- (4) For horizontal additions with independent foundations that are not structurally connected to the *base building* and the common wall with the *base building* is modified by no more than a doorway, the *base building* is not required to be brought into compliance.
- (5) A horizontal addition to a building or *structure* that is not *substantial improvement*, and is not located in *nontidal waters of the state*, is not required to comply with this section.

[Note: See “Substantial Improvement/Substantial Damage Desk Reference” (FEMA P-758).]

(f) *Accessory structures.*

(1) An ~~a~~ accessory structure may be permitted as an exemption to the elevation requirement if it is six-hundred (600) square feet or less in total floor area and conforms to subsections (A-F below).

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~~(A) s shall be limited to not more than 300 square feet in total floor area.~~

~~(B) (A) Accessory structures shall comply with the elevation requirements and other Section 5.4, the floodproofing requirements of Section 5.5(B), or shall:~~

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- (B) Be constructed with *flood damage-resistant materials* below the *base flood elevation*;
- (C) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
- (D) Be anchored to prevent flotation;
- (E) Have electrical service and mechanical equipment elevated to or above the *base flood elevation*; and
- (F) Have *flood openings* that meet the requirements of section 8-30(d)(3).

5.8 Agricultural Buildings

Commented [LC20]: If possible, AG structures should be located outside of the *SFHA*

~~(3) Demonstrate in writing what the building will be utilized for, provide a floor plan diagram illustrating door(s), window(s), flood vents and overall dimensions, etc.~~ **Sec. 8-32. – Variances.**

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(a) *General.*

- (1) The ~~BODY DESIGNATED TO HEAR VARIANCES~~ Board of Zoning Appeals ~~Floodplain Management Appeals Review Committee~~ Board of Zoning Appeals shall have the power to consider and authorize or deny *variances* from the strict application of the requirements of these regulations. A *variance* shall be approved only if it is determined ~~to~~ to not be contrary to the public interest and where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations, an unnecessary hardship would result.
- (2) Upon consideration of the purposes of these regulations, the individual circumstances, and the considerations and limitations of this section, the Board of Zoning Appeals ~~DESIGNATED BODY~~ Board of Zoning Appeals ~~Floodplain Management Appeals Review Committee~~ may attach such conditions to *variances* as it deems necessary to further the purposes of these regulations.
- (3) No variance shall be granted for an accessory structure exceeding 600 square feet. –Variances may be considered for agricultural buildings exceeding 600 square feet. Refer to Section 5.8.
- (4) A record of all *variance* actions, including justification for issuance shall be maintained pursuant to section 8-28(b)(10) of these regulations.

Commented [kgw21]: County to confirm this is the correct body that hears floodplain variance requests here and throughout Section 7.0.

(b) *Application for a variance.*

- (1) The owner of property, or the owner's authorized agent, for which a *variance* is sought shall submit an application for a *variance* to the *Floodplain administrator*.
- (2) At a minimum, the application shall contain the following information: name, address, and telephone number of the applicant and property owner; legal description of the property; parcel map; description of the existing use; description of the proposed use; site map showing the location of flood hazard areas, designated *floodway* boundaries, *flood zones*, *base flood elevations*, and *flood protection setbacks*; description of the *variance* sought; and reason for the *variance* request. *Variance* applications shall specifically address each of the considerations in section 8-32(c).

(3) If the application is for a variance to allow the lowest floor of a building or structure below the applicable minimum elevation required by these regulations, the application shall include a statement signed by the owner that, if granted, the conditions of the variance shall be recorded on the deed of the property.

(4) If the application is for a variance for a historic structure pursuant to section 8-29(g) of these regulations, the application shall contain documentation that the proposed work does not preclude the structure's continued eligibility and designation as a historic structure. The documentation shall be obtained from a source that is authorized to make such determinations (see definition of "Historic Structure").

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~~(2) If the application is for a variance to allow the lowest floor of a building or structure below the applicable minimum elevation required by these regulations, the application shall include a statement signed by the owner that, if granted, the conditions of the variance shall be recorded on the deed of the property.~~

(1) *MDE comments.* The Floodplain administrator shall request comments on variance applications from MDE (NFIP State Coordinator) and shall provide such comments to the -Board of Zoning Appeals~~DESIGNATED BODY~~Board of Zoning Appeals Floodplain Management Appeals Review Committee.

(2) *Board of zoning appeals findings.* In considering variance applications, the ~~DESIGNATED BODY~~Board of Zoning Appeals Floodplain Management Appeals Review Committee Board of Zoning Appeals shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

- (A) The danger that materials may be swept onto other lands to the injury of others.
- (B) The danger to life and property due to *flooding* or erosion damage.
- (C) The susceptibility of the proposed *development* and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
- (D) The importance of the services to the *community* provided by the proposed *development*.
- (E) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, *flooding* or erosion damage.

- (F) The necessity to the facility of a waterfront location, where applicable, or if the facility is a *functionally dependent use*.
 - (G) The compatibility of the proposed use with existing and anticipated *development*.
 - (H) The relationship of the proposed use to the comprehensive plan and hazard mitigation plan for that area.
 - (I) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles.
 - (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (K) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
 - (L) The comments provided by *MDE (NFIP State Coordinator)*.
- (d) *Limitations for granting variances.* The ~~{DESIGNATED BODY}~~Board of Zoning Appeals Floodplain Management Appeals Review Committee shall make an affirmative decision on a *variance* request only upon:
- (A) A showing of good and sufficient cause. Good and sufficient cause deals solely with the physical characteristics of the property and cannot be based on the character of the improvement, the personal characteristics of the owner/inhabitants, or local provision that regulate standards other than health and public safety.
 - (B) A determination that failure to grant the *variance* would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 - (C) A determination that the granting of a *variance* for *development* within any designated *floodway*, or flood hazard area with *base flood elevations* but no designated *floodway*, will not result in increased flood heights beyond that which is allowed in these regulations.

- (D) A determination that the granting of a *variance* will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing local laws.
- (E) A determination that the building, *structure* or other *development* is protected by methods to minimize flood damages.
- (F) A determination that the *variance* is the minimum necessary to afford relief, considering the flood hazard.

~~(3) Demonstrate in writing what the building will be utilized for, provide a floor plan diagram illustrating door(s), window(s), flood vents and overall dimensions, etc.~~ **Sec. 8-33. –**

Enforcement.

- (a) *Compliance required.*
 - (1) No building, *structure* or *development* shall hereafter be located, erected, constructed, reconstructed, improved, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations.
 - (2) Failure to obtain a permit shall be a *violation* of these regulations and shall be subject to penalties in accordance with section 8-33(c).
 - (3) Permits issued on the basis of plans and applications approved by the *Floodplain administrator* authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a *violation* of these regulations.
- (b) *Notice of violation and stop work order.* If the *floodplain administrator* determines that there has been a *violation* of any provision of these regulations, the *Floodplain administrator* shall give notice of such *violation* to the owner, the owner's authorized agent, and the *person* responsible for such *violation*, and may issue a stop work order. The notice of *violation* or stop work order shall be in writing and shall:
 - (1) Include a list of *violations*, referring to the section or sections of these regulations that have been violated;
 - (2) Order remedial action which, if taken, will ~~aeffect~~ effect compliance with the provisions of these regulations;
 - (3) Specify a reasonable period of time to correct the *violation*;
 - (4) Advise the recipients of the right to appeal; and

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- (5) Be served in person; or
- (6) Be posted in a conspicuous place in or on the property and sent by registered or certified mail to the last known mailing address, residence, or place of business of the recipients.
- (c) *Violations and penalties.* Violations of these regulations or failure to comply with the requirements of these regulations or any conditions attached to a permit or variance shall constitute a ~~misdemeanor~~ municipal infraction. Any person responsible for a violation shall comply with the notice of violation or stop work order. A fine of two-hundred dollars (\$200.00) will be imposed for the first violation and a fine of four-hundred dollars (\$400.00) will be imposed for each violation thereafter. Failure to comply shall be deemed a fine of [INSERT PENALTIES ESTABLISHED BY THE COMMUNITY] five hundred US dollars (\$500.00). Each day a violation continues shall be considered a separate offense. The violation must be corrected prior to any further work progressing on the project. Nothing herein contained shall prevent the ~~[COMMUNITY NAME]~~ Allegany County the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Commented [m22]: Get input from City solicitor

SECTION 9.0 SUBSEQUENT AMENDMENTS AND EFFECTIVE DATE

~~(3) Demonstrate in writing what the building will be utilized for, provide a floor plan diagram illustrating door(s), window(s), flood vents and overall dimensions, etc.~~ Sec. 8-34. – Subsequent amendments and effective date.

- (a) *Subsequent Amendments.* All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency. This ordinance shall be amended as required by *FEMA*, Title 44, Code of Federal Regulations. All subsequent amendments to this ordinance are subject to the approval of the Federal Emergency Management Agency and *MDE*.
- (b) *Effective date.* This ordinance is effective as of February 11, 2020. ADOPTED this _____ day of _____, 20____ and to be effective on the _____ 3rd day of _____ April, 2020 _____.

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Commented [kgw23]: We recommend the new ordinance take effect on the same date of the new maps to make for a smooth transition.

Brandon S. Butler, Esq., County Administrator

Item Attachment Documents:

Order 26,613 - lifting Section 11-113 of the City Code to allow open containers of alcohol in a defined area of the downtown for the Hooley Pub Crawl, beginning March 14, 2020 at 12:00 p.m. and through March 15, 2020 at 2:00 a.m.; notwithstanding that open glass containers shall not be allowed

- Order -
of the
Mayor and City Council of Cumberland
MARYLAND

ORDER NO. 26,613

DATE: March 3, 2020

ORDERED, By the Mayor and City Council of Cumberland, Maryland,

THAT, the provisions of Section 11-113 of the City Code, entitled "Open Containers of Alcohol," be and are hereby lifted for the Hooley Pub Crawl beginning on March 14, 2020 at 12:00 p.m. through 2:00 a.m. on March 15, 2020, within the confines of the following areas:

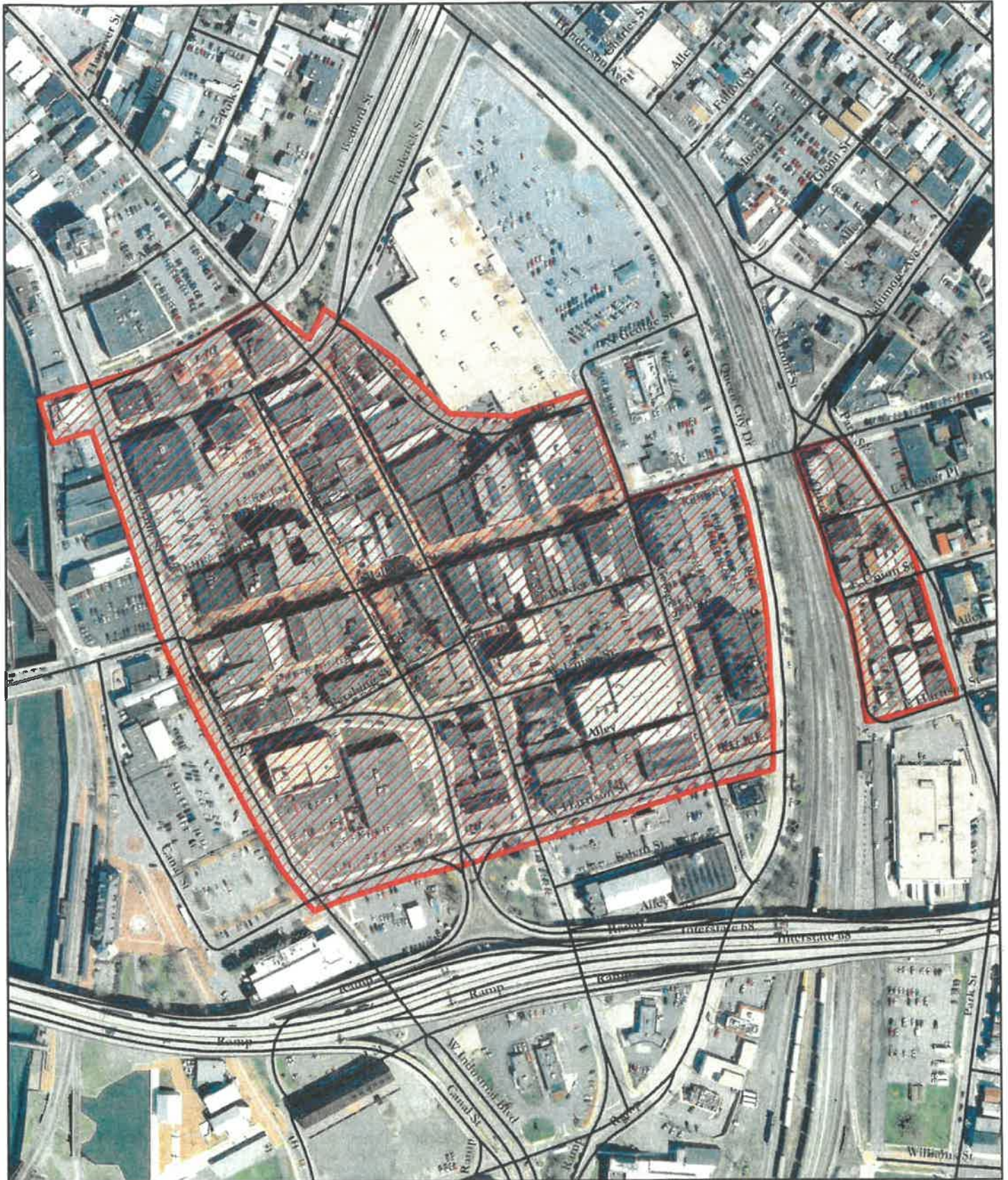
- Mechanic at Bedford Street south to Harrison Street;
- Harrison East to Queen City Drive
- Queen City Drive north to Baltimore Street;
- Baltimore Street west to George Street;
- George Street north to Butler Alley;
- Butler Alley to Frederick and Bedford Streets by way of Centre Street;
- with extensions to Queen City Pavement / Gulf Memorial Drive.

Notwithstanding the foregoing, open glass containers shall not be permitted in the area defined above and Section 11-113 (a) of the City Code shall remain in force and effect as to glass open containers of alcoholic beverages in that area.

Raymond M. Morriss, Mayor

**Map attached*

Open Container Area



0 105 210 420 630 Feet



Open Container Area

Item Attachment Documents:

Order 26,614 - awarding \$50,000 in Community Legacy fund through the Central Business District Accessibility Improvement Program to Canal Place Preservation & Development Authority for the "No Fewer Than 12 Tenant and Public Access Location Project"

- ORDER -
of the
Mayor and City Council of Cumberland
MARYLAND

ORDER NO. 26,614

DATE: March 3, 2020

ORDERED, By the Mayor and City Council of Cumberland, Maryland

THAT, Community Legacy funding from the Central Business District Accessibility Improvement Program be awarded to the Canal Place Preservation & Dev. Authority (CPPDA) for the “No Fewer Than 12 Tenant and Public Access Location Project” at the Western MD Railway Station and Canal Place Shops in the amount not to exceed Fifty Thousand Dollars (\$50,000).

Raymond M. Morriss, Mayor

Funding: Community Legacy 114.199AI.CBD 20100

DEPARTMENT OF COMMUNITY DEVELOPMENT

TO: MAYOR AND CITY COUNCIL
JEFF RHODES, MARGIE WOODRING

FROM: KATHY MCKENNEY

SUBJECT: CENTRAL BUSINESS DISTRICT ACCESSIBILITY IMPROVEMENT PROGRAM STAFF RECOMMENDATION

DATE: 2/26/20

On January 15, 2020, the Department of Community Development received a total of 3 applications for the Central Business District Accessibility Improvement Program, a program funded by the State of Maryland's Community Legacy program. Applicants had to have property located within the Central Business District and eligible requests were required to improve interior and/or exterior conditions that would allow improved access into, and then within, commercial structures. Projects were evaluated for completeness of the applications submitted, past track record of completing projects on time, and consistency with the Maryland Accessibility Code. The award would be contingent upon the successful completion of all compliance reviews required by the Community Legacy Program and the approval of the Maryland Historical Trust's Easement Committee.

At this time, the following project is recommended for funding:

1	Canal Place Preservation and Development Authority for No Fewer Than 12 Tenant and Public Access Locations	Western MD Railway Station & Canal Place Shops	Not to Exceed \$50,000
2	Jennifer Walsh	206 North Centre Street	\$0
3	Jennifer Walsh	208 North Centre Street	\$0

Total	\$50,000	(\$50,000.00 Community Legacy 114.199AI.CBD 20100)
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Council Agenda Summary

Meeting Date: March 3, 2020

Agenda Item Number: Order 26,614

Key Staff Contact: Kathy McKenney, Community Development
Programs Manager

Item Title:

Order 26,614 - awarding \$50,000 in Community Legacy fund through the Central Business District Accessibility Improvement Program to Canal Place Preservation & Development Authority for the "No Fewer Than 12 Tenant and Public Access Location Project"

Summary:

Recommendation to award Community Legacy funding in an amount not to exceed \$50,000 to the Canal Place Preservation and Development Authority from the Central Business District Accessibility Improvement Program for improvements at not less than twelve locations within commercial tenant entrances and public access locations, including restrooms contingent on the completion of all compliance reviews required by the program and by the conditions of the preservation easement held by the Maryland Historical Trust on the Western Maryland Railway Station.

Issues and Considerations:

None

<i>Fiscal Impact:</i>	
Is this item budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Budget:	Enter Text Here
Value of award:	\$50,000
If item is not budgeted, does the budget need to be appropriated? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Is there grant funding being used? Yes	
If grant funding is being used, does it require a City match? No	
Match provisions:	Enter Text Here
Is this a sole source purchase? <input type="checkbox"/> Yes <input type="checkbox"/> No (If so, attach department recommendation and approval from City Administrator.)	

Item Attachment Documents:

Order 26,615 – accepting the February 12, 2020, recommendation of the Historic Preservation Commission to authorize local historic site designation for the Avirett Place Columns located at the corner of Avirett Avenue and South Allegany Street

- ORDER -
of the
Mayor and City Council of Cumberland
MARYLAND

ORDER NO. 26,615

DATE: March 3, 2020

ORDERED, By the Mayor and City Council of Cumberland, Maryland

THAT, the February 12, 2020 recommendation of the Historic Preservation Commission to authorize local historic site designation for the Avirett Place Columns located at the corner of Avirett Avenue and South Allegany Street be and is hereby approved.

Raymond M. Morriss, Mayor

Council Agenda Summary

Meeting Date: March 3, 2020

Agenda Item Number: Order 26,615

Key Staff Contact: Kathy McKenney

Item Title:

Order 26,615 – accepting the February 12, 2020, recommendation of the Historic Preservation Commission to authorize local historic site designation for the Avirett Place Columns located at the corner of Avirett Avenue and South Allegany Street

Summary:

The Cumberland Historic Preservation Commission recommended a local historic site designation for the Avirett Place Columns, located at the corner of Avirett Avenue and South Allegany Street. This recommendation was approved unanimously at the February 12, 2020 meeting. Mr. Edward Taylor, Jr., owner of 400 South Allegany Street requested consideration for this designation. Two of the four columns are located within the Public Right of Way and two columns are located on private property - one is located at 400 South Allegany Street and the other is located at 420 Avirett Avenue. Ms. Roberta Conn, owner of 420 Avirett Avenue has provided a letter of concurrence. A copy of the Historic Structure Survey Form and the letter from Ms. Conn have been provided.

Issues and Considerations:

The Code provides authority to the Historic Preservation Commission to undertake studies to provide recommendations for local historic designation for sites and structures. Research on the Avirett Place Columns has been attached in the standard local survey form.

<i>Fiscal Impact: Not Applicable</i>	
Is this item budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Budget:	Enter Text Here
Value of award:	Enter Text Here
If item is not budgeted, does the budget need to be appropriated? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Is there grant funding being used? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If grant funding is being used, does it require a City match? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Match provisions:	Enter Text Here
Is this a sole source purchase? <input type="checkbox"/> Yes <input type="checkbox"/> No (If so, attach department recommendation and approval from City Administrator.)	



City of Cumberland Historic Structure Survey Form

This form is for use in making recommendations for individual properties and districts. If any item does not apply to the property being documented, enter "N/A" for "not applicable."

1. Name of Property

Historic name: Avirett Place Columns

Other names:

2. Location

Street & number: Corners of South Allegany Street and Avirett Avenue

3. Local Certification

As the designated authority under Ordinance 3208 and chair of the Cumberland Historic Preservation Commission, I hereby certify that the Historic Preservation Commission ☒ recommends to the Cumberland Mayor and City Council that this property is historically significant and should be designated as such under local law.

☐ Does not recommend this property should be designated under local law.

The Mayor and City Council ☐ concurs ☐ does not concur with the recommendation of the Cumberland Historic Preservation Commission.

Signature of certifying official/Title

Date

4. Classification

Ownership of Property

- ☒ Private ✓ Two of the larger of the four columns are located on private property – one each on 420 Avirett Avenue and on 400 South Allegany Street
- ☒ Public-local ✓ Two of the smaller of the four columns are located within the public right of way on the opposite sides of South Allegany Street at the Avirett Avenue intersection
- ☐ Public-State
- ☐ Public-Federal

Category of Property

- ☐ Building(s)
- ☐ District
- ☒ Site ✓
- ☐ Structure
- ☐ Object

Number of Resources within Property

	Contributing	Noncontributing
Buildings		
Sites		
Structures		
Objects	4	
Total	4	

5. Function or Use

Historic Functions

Appear to have served as an entrance to Avirett Place and would have separated the Rose Hill residence from the Avirett Place subdivision when it was developed c. 1920.

Current Functions

Ornamental. One column now features an informational plaque about the historic landowner, Captain David Lynn

6. Description

Architectural Classification

Freestanding mortared stone columns

Materials

Foundation Stone with some concrete repair/replacement

Walls Mortared Stone

Roof N/A

Other

Summary Statement of Significance:

The Rose Hill Estate David Lynn

Enter Rose Hill 1965 info here and references

Next list Avirett Place Subdivision 1919

Street Closures 1921

Map from engineering showing when columns first appear on maps

Documents from SHA

According to the Historic American Building Survey completed by Ms. Hazel Groves Hansrote on October 16, 1969 now on file with the Maryland Historical Trust (AL-IV-A-084), the Rose Hill mansion was constructed in 1801 by Captain David Lynn who, as a Revolutionary War soldier, was provided 50 acres of land according to an Act passed by the General Assembly in Maryland in 1777 to all soldiers who had served three years.¹ According to the US GenWeb Archives, the General Assembly passed another act in 1781 which reserved "all the vacant lands in the State westward of 'Fort Cumberland' for the soldiers."² The structure was known as the third brick house built in Allegany County³ and the oldest brick house in Cumberland. The estate, also known as Rose Hill, stretched from "the Potomac River on the South to the Cumberland Narrows on the North, then on the outskirts of Cumberland..."⁴ The house, referred to in Thomas and Williams' History of Allegany County Volume 1 as "perhaps the most picturesque old home today in Cumberland" (Figure 1) was situated on approximately six acres of land.⁵

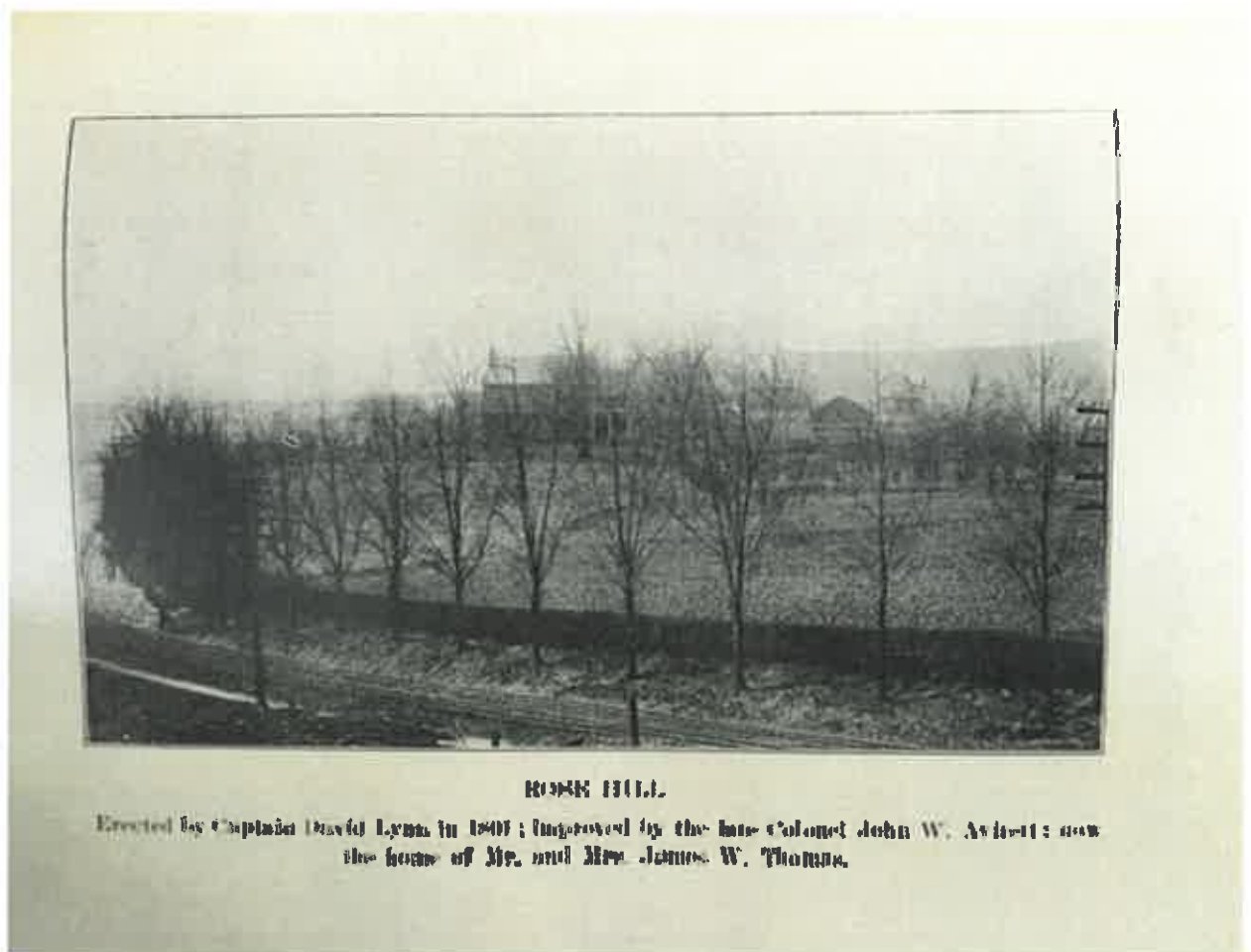
¹ Maryland Historical Trust, Maryland Inventory of Historic Properties "Avirett Place, Cumberland (AL-IV-A-084) <https://mht.maryland.gov/mihp/MIHPCard.aspx?MIHPNo=AL-IV-A-084> (accessed February 5, 2020).

² "Military Lots for Revolutionary War Soldiers, Allegany County Maryland" <http://files.usgwarchives.net/md/allegany/land/millots.txt> (accessed February 5, 2020).

³ History of Allegany County Maryland, James W. Thomas, LL.D. and Judge T.J.C. Williams, Volume 1, Publishers L.R. Titworth & Company, 1923, pg.784.

⁴ Ibid, page 450.

⁵ Ibid.



History of Allegany County Maryland, James W. Thomas, LL.D. and Judge T.J.C. Williams, Volume 1, Publishers L.R. Titworth & Company, 1923, pg.451

Figure 1

Following the passing of Captain Lynn in 1835, his descendants continued to own the property until 1904 when it was purchased by Colonel John W. Avirett who was the founder of the Cumberland Evening Times.⁶ Following the acquisition of the property by Mr. Avirett, it became known as The Avirett Place. According to Thomas and Williams, the remaining portion of the Rose Hill Estate was known as the Rose Hill Addition to Cumberland, Maryland.⁷

On May 25, 1967, the three remaining parcels of the Rose Hill estate, including the original house transferred ownership from James A. Avirett and Sarah Avirett to the State Roads Commission of Maryland and the structure was subsequently demolished.⁸ This

⁶ Western Maryland Historical Library (WHILBR) scan "Tableland Trails: A Quarterly Magazine Devoted to the History, Folk-Lore and Cultural Interests of the Tri-State Area"

<http://whilbr.org/Image.aspx?photo=gctt045s.jpg&idEntry=6885&title=Local+landmarks+page+5>
 (Accessed 2/6/20).

⁷ Ibid.

⁸ Allegany County Land Records, Liber 408 Folio 117

was due to the alignment of the new Route 48 interstate that was to be constructed. A copy of the "as built" drawing of this section that was prepared by Green Associates, Inc. Consulting Engineers of Baltimore, Maryland for the State Roads Commission on 7/28/1967 is shown in Figure A.

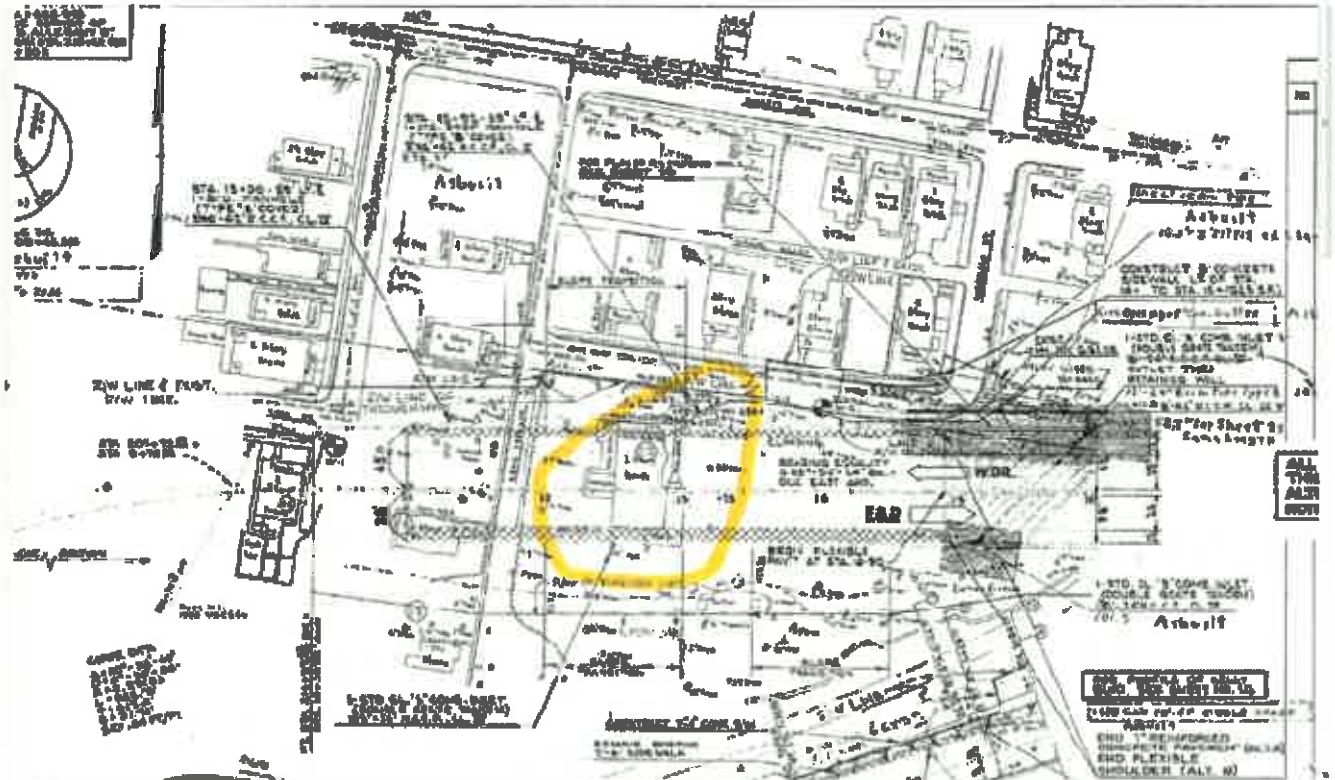


Figure A.

In 1921, the Avirett Place Subdivision was recorded in the land records of Allegany County. This was a subdivision of the Rose Hill Addition into smaller building lots as shown on the subdivision map (Figure 2 and Figure 3) of this document.⁹ Between June of 1922 and November of 1925 forty two building permits were filed with the City of Cumberland for construction projects within the boundaries of the Avirett Place Subdivision.¹⁰

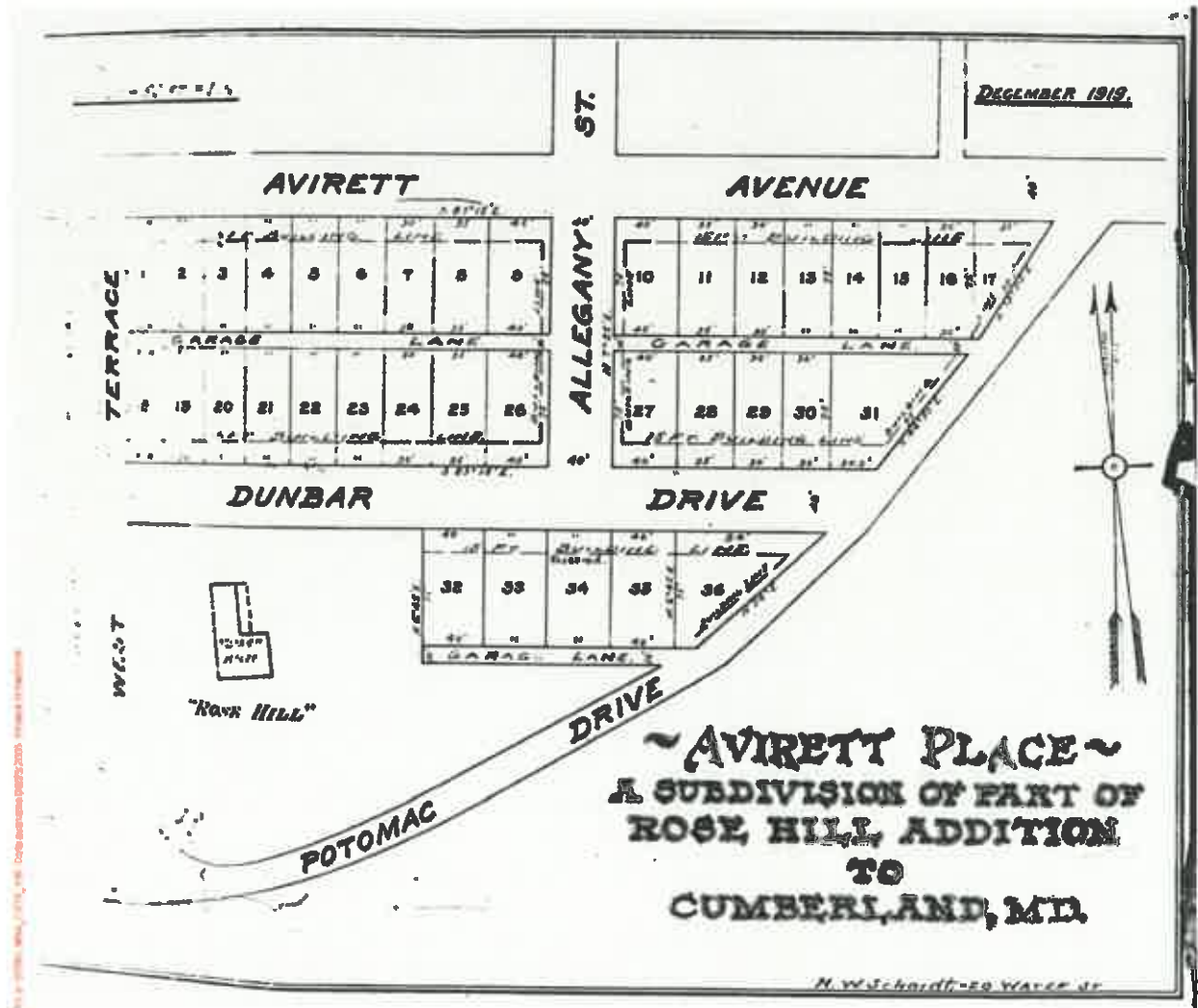


Figure 2

⁹ Allegany County Land Records, Liber 135 Folio 729, Avirett Place Plat, 1921

¹⁰ City of Cumberland, Department of Community Development, "Building Permit List 1901-1925), unpublished.

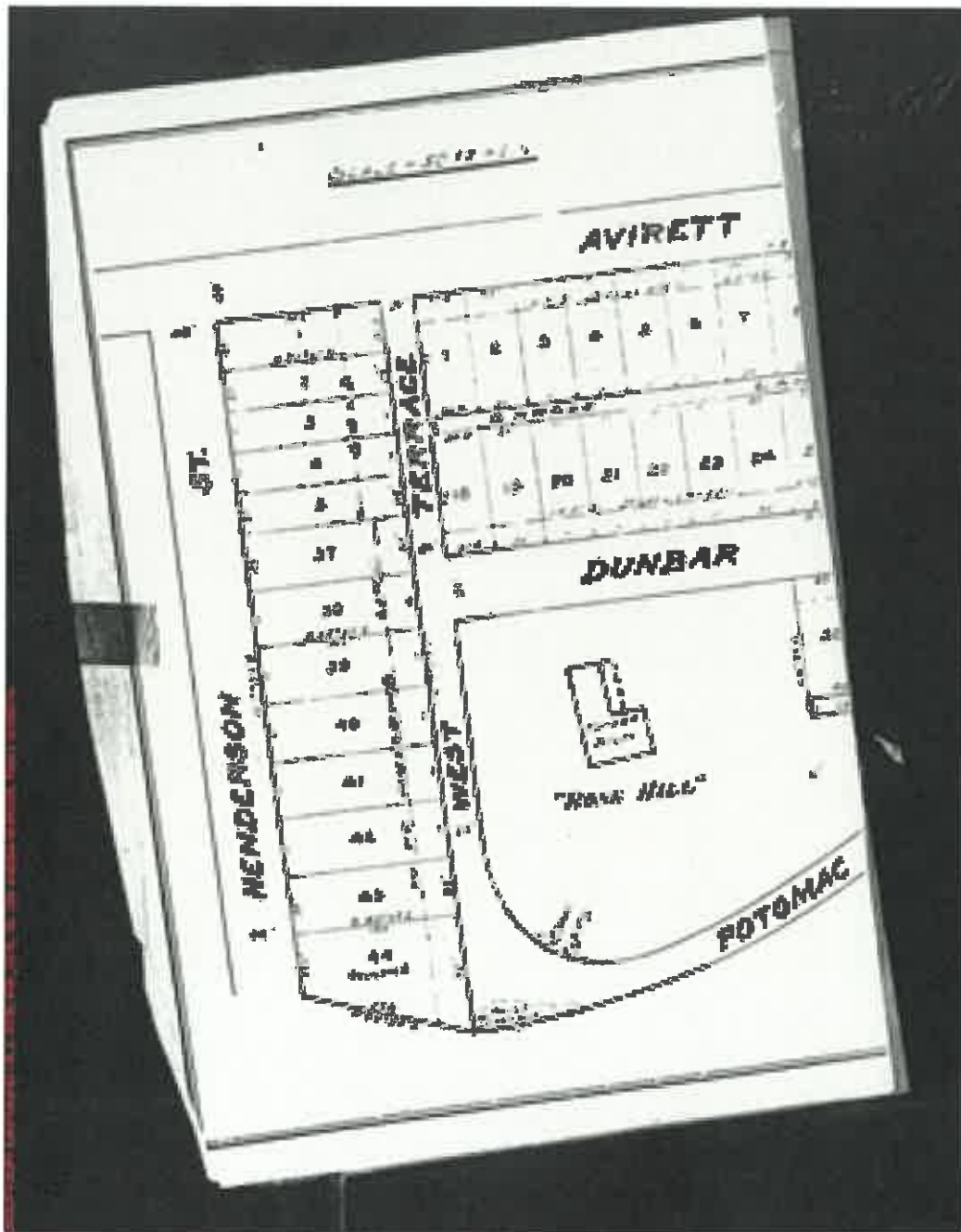


Figure 3

The columns first appear in City of Cumberland records in 1928 on a map (Figure 4) entitled, Allegany St. Paving Plan: Avirett Ave to Dunbar Drive¹¹.

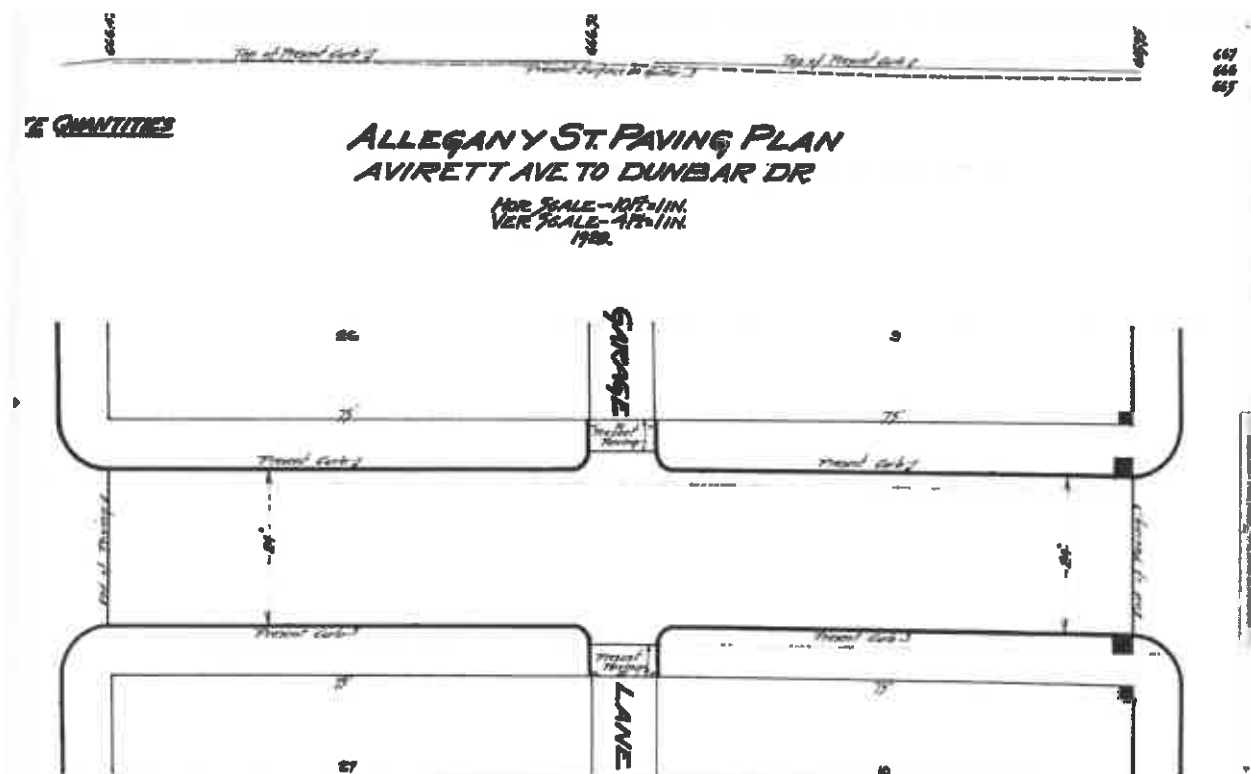


Figure 4

There are four columns in total, two on each side of South Allegany Street at its intersection with Avirett Avenue. (Figures 5a and 5b). All are constructed of mortared stone block with a masonry cap and centrally-placed urn. For each set of columns, the innermost column is situated in the public right of way adjacent to the roadbed. The outer column is located on private property. The privately situated column at 420 Avirett Avenue measures 60" high by 27 ¾" square with a cap measuring 32 ¼" square by 7 ½" high. It is situated on a stone base adjacent to the sidewalk intersection (Figure 6).

A larger column is situated in the public right of way on this same side of the road. This column measures 84" high by 36" square with a masonry cap measuring 44" square by 8" high and topped with an urn. This particular column is situated on a concrete pad of much later construction that measures 39 ½" square by 3 ½" high. It appears that this base was later retrofitted with this contemporary pad when the concrete sidewalk radii was constructed to provide improved accessibility and detectable warning pads for the disabled. (Figure 7).

¹¹ Allegany Street Paving Plan: Avirett Ave to Dunbar Drive, City of Cumberland Department of Engineering records, 1928

A similar large column is located on the other side of South Allegany Street in the public right of way near 400 South Allegany Street. This column measures 80" high by 36" square with a masonry cap that measures 44" square and 8" high with a similar urn affixed to the top. The base of this column is a blend of stone and concrete. It appears that the concrete was utilized to level the column when a more modern sidewalk was installed. In 2008, the Cumberland Historic Cemetery Organization installed an interpretive plaque on this column to provide information about Captain David Lynn and Rose Hill. (Figure 8)

Another smaller column is located on the private property of 400 South Allegany Street. This column measures 61 ½" high by 26 ½" square. As with the other columns, it features a masonry cap which measures 32" square by 8" high and is topped with an urn. It is situated on a stone base adjacent to the sidewalk intersection (Figure 9)

On each of the two larger columns, the second course of stone from the top have been engraved with "Avirett Place". (Figure 10) This, along with the 1928 Paving map would appear to indicate that the columns are contemporary with the Avirett Place Subdivision, placing their construction approximately between 1921 and 1928. It is therefore from the subdivision from the original larger Rose Hill estate that was subsequently subdivided into the Avirett Place that the subject stone columns have gained significance.

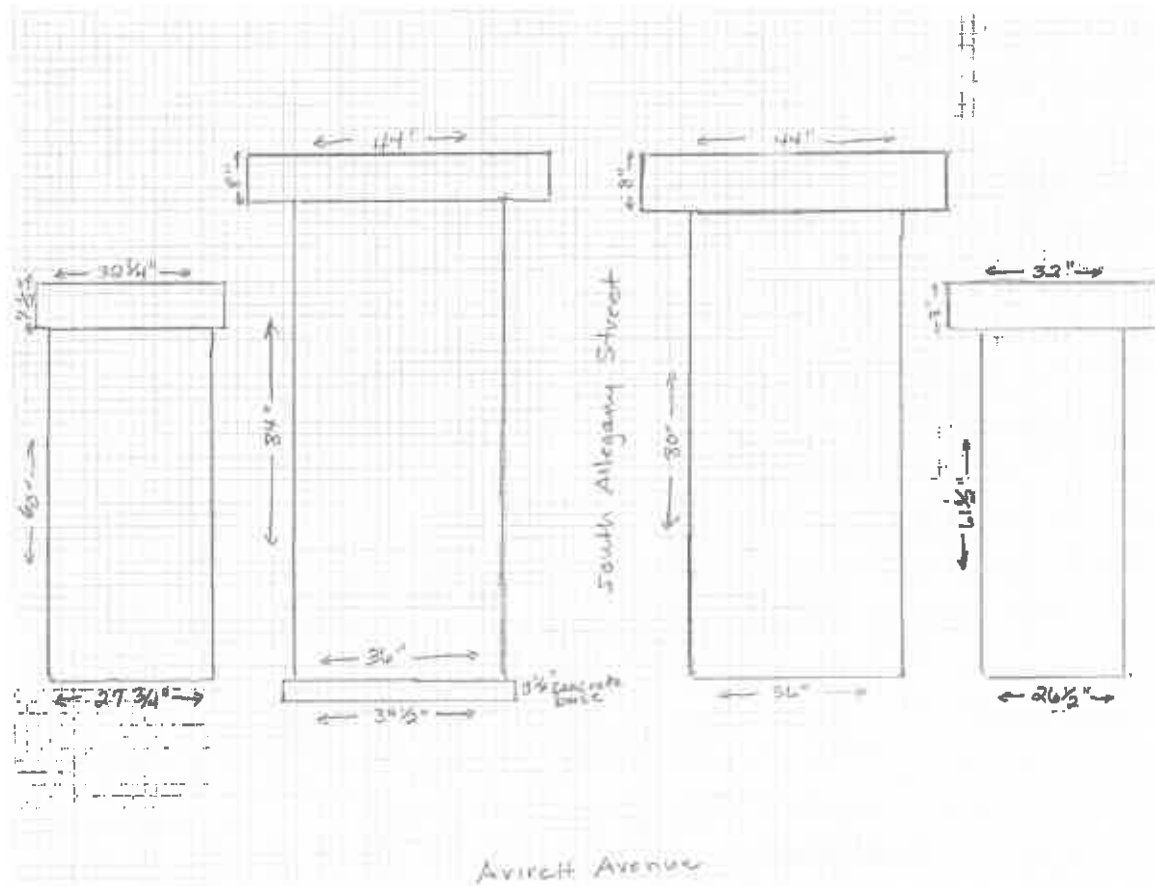


Figure 5a



Figure 5b



Figure 6



Figure 7



Figure 8



Figure 9



Figure 10

Photos by Kathy McKenney, Community Development Programs Manager, City of Cumberland

7. Form Prepared By

Name/title	Kathy McKenney/Community Development Programs Manager
Organization	City of Cumberland
Street & Number	57 North Liberty Street
City or town	Cumberland
State	MD
Zip Code	21502
Date	February 4, 2020
Telephone	301-759-6431

8. Property Owner(s)

Name Edward W. Taylor, Jr.
Street & Number 400 South Allegany Street
City Cumberland
State MD
Zip 21502
Telephone 301-722-4624

Name Roberta Conn
Street & Number 420 Avirett Avenue
City Cumberland
State MD
Zip 21502
Telephone 301-724-4716

Name Mayor and City Council of Cumberland
Street & Number 57 North Liberty Street
City Cumberland
State MD
Zip 21502
Telephone 301-722-2000

NOTES

Ms Roberta Conn
420 Avirett Ave
Cumberland, MD 21502-3356

1-5-20

Dear Miss McKenney,
This note is in
reference to the letter
I received, Dated Dec 31, 2019
The stone columns - one
is on my property - 420
Avirett Ave. The column
Pillar is historic, and
should remain with the
other pillar. They are
HISTORIC.

Thank You,

Roberta M Conn
301-724-4716



Ms Roberta Conn
420 Avirett Ave
Cumberland, MD 21502-3356

BALTIMORE MD 212

15 JAN 2020 PM 3 L



Miss Kathy McKenney
57 N. Liberty St.
Cumberland, Md.
21502

21502-231257

