

**In the Matter of the Legacies Forest  
Conservation Plan Approval**

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**Havre de Grace Board of Appeals  
Case #560**

Charles Place, Carol Zimmerman, Carole  
Andrews and Tammis Coit, Petitioners

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**Havre de Grace Director of Planning’s Response to the  
Petitioner’s Appeal of The Legacies Forest Conservation Plan Approval**

**I. Introduction**

Charles Place, Carol Zimmerman, Carole Andrews and Tammis Coit, (collectively, “Petitioners”) appeal the Havre de Grace Director of Planning’s February 27, 2026 approval of The Legacies residential subdivision forest conservation plan (“FCP Approval”). Petitioners elected to file their appeal with the City’s Board of Appeals. Pursuant to City Code 25-16A(1), the Petitioners had thirty days, or until March 29, 2026, to file their appeal.

This Response, submitted on behalf of the Director of Planning for the City of Havre de Grace (“Director”) and the Department of Planning (collectively “Department”), addresses three threshold issues: (1) whether the City’s Board of Appeals has legal authority to hear an appeal of a forest conservation plan approval; (2) whether Petitioners are aggrieved persons; and (3) whether Petitioners’ filing was untimely. Failure to meet any one of these threshold issues requires dismissal. For the reasons set forth below, the Board of Appeals must dismiss this appeal because the Petitioners fail to satisfy even one of these threshold issues.

**II. Statement of Facts and Background**

On March 6, 2026, the petitioner Charles Place, on behalf of himself and the other Petitioners, submitted to the City’s Director of Administration, Christopher Ricci (“Director of Administration” or “Director Ricci”), documents via email together with a thumb drive by hand delivery containing supporting exhibits (“Original Petition”). The Original Petition seeks: (a) Administrative Review of the Planning Department’s approval of the Final Forest Conservation Plan for The Legacies i.e., “Remaining Lands of Green” subdivision, F-FCP approval letter dated February 27, 2026, and (b) a stay of all proceedings. The specific documents submitted with the Original Petition to Director Ricci include the following:

- a. Petitioner’s FCP Administrative Review Cover Letter, Dated March 6, 2026
- b. Petitioner’s Administrative Review Letter and Requested Restraining Order, Dated March 6, 2026
- c. Petitioner’s List of Administrative Review Exhibits, Dated March 6, 2026 (Revised March 29, 2026)

- d. Thumb drive containing the Petitioners' Exhibits
- e. Petitioners' \$450 Application Fee

At that time, Petitioners did not include a list of parties who were to receive notice of their Original Petition, nor did they file their Original Petition with the Board of Appeals.

On March 8, 2026, Petitioner Place emailed a revised document to Director Ricci, making a non-substantive change to the Original Petition. On March 17, 2026, Mr. Place asked Mr. Ricci about scheduling the Board of Appeals hearing. The next day, Director Ricci advised that notice of the hearing was required under the City Code before a hearing could be scheduled and that Petitioners needed to provide a list of parties who were to receive notice. *See City Code 25-16D*. After several back and forth email communications with Director Ricci, Petitioner Place eventually submitted on March 25, 2026 a final list names and addresses of persons whom Petitioners claimed were entitled to notice. On March 29, 2026, Petitioners further revised their list of Exhibits to add new Exhibit K. ("Final Petition").

As it was too late to mail the required notice for the already scheduled April 2, 2026 Board of Appeals meeting, no hearing on Petitioners' Final Petition was added to the agenda. Instead, the Board considered the City Attorney's recommendation that the Board retain outside counsel to assist them with the appeal. At the April 2, 2026 meeting, the Board of Appeals approved retention of outside counsel. The retention of outside counsel was approved by the City Council on April 6, 2026 at its regularly scheduled City Council meeting. At that time, Petitioners still had not filed a notice of appeal with the Board of Appeals.

On April 20, 2026, Petitioners, through Mr. Place, submitted a Notice of Appeal and two separate cover letters, one to Director of Planning Geoff Goins, and one to Bill Putland, Chair of the Board of Appeals. The City's Department of Planning on April 22, 2026 mailed the required notice by certified mail to the list of persons submitted by Petitioners, and the Petitioners' appeal was placed on the Agenda for the next regular Board of Appeals meeting scheduled for May 7, 2026. Due to a lack of quorum, the hearing was then rescheduled for June 4, 2026.

The Director of Planning certified the FCP Approval record on April 22, 2026. The following documents, submissions, and correspondence were deemed part of the Legacies FCP administrative approval process and constitute the official record:

- a. Department of Planning FCP Approval Letter, Dated February 27, 2026
- b. Legacies Revised FCP, Dated February 4, 2026
- c. Legacies Preliminary FCP, Dated April 24, 2024
- d. Department of Planning FSD Approval Letter, Dated March 24, 2021
- e. Legacies FSD, Dated February 15, 2021
- f. Legacies FSD Narrative, Dated February 17, 2021
- g. Legacies USACE-JD, Dated July 16, 2021
- h. Legacies MET Deed of Conservation Easement, Dated November 21, 1990
- i. Miscellaneous email correspondence related to the FCP approval

### **III. THE LEGACIES SUBDIVISION AND FCP APPROVAL**

Property owner Jonathan Green, representing his families' interests through two family owned limited liability companies Tierra Verde Enterprises LLC and MJER LLC ("Applicant") submitted a Preliminary Forest Conservation Plan ("FCP") concurrently with a preliminary subdivision plan as required under the City Code. While the subdivision plan must be approved by the City's Planning Commission pursuant to City Code 173, the FCP is subject to review and final approval by the Department of Planning only. See City Code 81. There is nothing in the City Code or under Maryland law that delegates review and approval of a forest conservation plan to a local planning commission.

Prior to the Department of Planning's review of the FCP, Applicant submitted a forest stand delineation ("FSD") as required by City Code §81-6B. In reviewing the FSD, the Department considered the original conditions of the site, the analysis performed by the United States Army Core of Engineers Jurisdictional Determination regarding wetlands and streams and responses thereto, and the Green Property Forest Stand Delineation and Environmental Features Delineation and Narrative Reports prepared by Bay State Land Services ("BSLS"), dated February 17, 2021, which contained detailed analysis and review of the sites, consistent with City Code §81-5B&C. The FSD was field verified by the City on or around the week of February 26, 2021. The Department approved the FSD on March 24, 2021. Petitioners did not appeal the FSD approval.

The Havre de Grace Planning Commission approved the preliminary subdivision plan for a 290 unit subdivision known as 'The Legacies' by a vote of 5-1 on May 20, 2025 ("Legacies PC Approval"). The Legacies is located between Level Road, Bulle Rock Parkway, and the existing Scenic Vista subdivision. Petitioner Place was an alternate member of the Planning Commission at the time of the Legacies PC Approval and voted against the subdivision project. During the Legacies PC Approval hearing, Petitioner Place admitted to going onto the Applicant's land to measure trees and collect other evidence in support of his position that The Legacies should not be approved, in part, because the FSD needed to be updated and the FCP was in violation of City Code 81. Petitioner Place subsequently resigned from the Planning Commission.

After the Legacies PC approval and consistent with City Code §81-6C, the FCP was submitted for final review and approval. The Department of Planning reviewed the Applicant's "Revised Final Forest Conservation Plan 2026" for the development of the Remaining Lands of Green property (Tax Map 44 – Parcels 198, 210, 237, 311, 584, 697) originally dated April 4, 2024 and revised February 4, 2026. The Department of Planning coordinated the review of the revised FCP and compared it with the already approved FSD. After careful review and consideration, the Department of Planning found that no specimen trees or environmental sensitive areas were adversely impacted on site or proposed to be removed, thus satisfying the Forest Conservation Act (City Code 81) criteria. The Director of Planning issued the final FCP approval letter on February 27, 2026.

The FCP, which must be consistent with and approved prior to the expiration of the FSD, involves approximately 163 acres in total area with 38.42 acres of existing forest onsite and 3.23 acres of existing non-tidal wetlands. There exists a total of twelve (12) identified specimen trees throughout the entirety of the Green family properties as shown on the previously approved FSD, with seven (7) specimen trees shown on the FCP for The Legacies subdivision. There are several wetlands areas and streams identified and located throughout the site. The FCP proposes the clearing of 18.36 acres of forest while retaining 20.06 acres of forest with the required 23.39 acres of reforestation. The FCP proposes 23.40 acres based on the existing forest, with proposed clearing and remaining forest credit for a total of 36.75 acres of total Forest Retention Area.

The Applicant never represented to the Department that the entirety of the vacant land and abandoned farm was subject to a national historic registry. Instead, Note 15 on the Applicant's FCP states "[t]here are no historic sites on the subject property." Similarly, Note 15 on the FSD originally submitted in 2021 states "there are no known historic sites on the subject property." There are no properties within municipal limits designated as historic sites by City Ordinance. The City has recognized one historic landmark, The Havre de Grace Colored School Museum and Cultural Center, by Resolution 2023-16, but the recognition was initiated by the property owner.

#### **IV. Statement of Issues**

1. Does the Havre de Grace Board of Appeals have legal authority to hear an appeal of the FCP Approval, which is not a land use and zoning matter?
2. Are the Petitioners aggrieved persons?
3. Did the Petitioners timely file their appeal with the Board of Appeals?

#### **V. Argument**

##### **A. The Board of Appeals Lacks Subject-Matter Jurisdiction**

Any analysis of the legal powers and authority of a municipality and its related boards and agencies must start with an examination of Maryland state law. *K. Hovnanian Homes of Maryland, LLC v. Mayor of Havre de Grace*, 472 Md. 267, 287-88 (2021). A local agency's authority is limited by the powers granted to it by the Maryland legislature. *Id.* The Land Use Article of the Maryland Annotated Code designates the powers delegated to local planning commissions and boards of appeals for those municipalities that choose to exercise zoning authority. Under Land Use Art. §4-305(1), the Board of Appeals may:

*hear and decide appeals* when it is alleged that there is an error in any order, requirement, decision, or determination *made by an administrative officer* or unit *under this division* or of any local law adopted *under this division* [Single – Jurisdiction Planning and Zoning].

(emphasis added). “This division” referenced in Section 4-305(1) means “Division 1 – Single Jurisdiction Planning and Zoning (Titles 1-13)” of the Land Use Art. of the Maryland Annotated Code. *See also Norwood Heights Imp. Ass’n v. Mayor and City Council of Baltimore*, 195 Md. 1 (1950) (affirming dismissal of administrative appeal where issuance of housing numbers had nothing to do with zoning); *John B. Norris, III, Esquire*, 87 Md. Op. Atty. Gen. 126 (Md. Atty. Gen., 2002) (acknowledging jurisdiction of zoning board of appeals is limited to land use matters).

Regarding forest conservation, the Maryland Legislature adopted those laws when it enacted the Maryland Forest Conservation Act in 1991, now codified in the Natural Resources Article of the Maryland Annotated Code (“MDFCA”). The MDFCA requires each county and municipality with planning and zoning authority to either adopt a local forest conservation program or allow the Maryland Department of Natural Resources (“DNR”) to directly administer the program. The City first adopted its local forest conservation act program in 1992 by Ordinance 767 (“HdGFCA”). The current HdGFCA is codified at City Code §81 and is based on the model ordinance under Title 8 of the Code of Maryland Regulations (“COMAR”). Thus, the HdGFCA was created under the Natural Resources Article, NOT Division I of the Land Use Article. The City has continuously administered the HdGFCA program since 1992.

Nothing in either the Land Use Article or the MDFCA grants authority to the Board of Appeals to hear an appeal of the Department’s FCP Approval. The HdGFCA requires submission of the FSD and the FCP to the Department as part of the subdivision review process, not the Planning Commission or Board of Appeals. HdGFCA §81-4 *See also* MDFCA, Natural Resources Art. §§ 5-1601 through 5-1613. There is nothing in the HdGFCA, the MDFCA, the Land Use Article, the City Code or COMAR that extends to the Planning Commission or Board of Appeals the authority to review FCP approvals. Further, nothing in the Land Use Article, MDFCA, or HdGFCA grants to the Board of Appeals the authority to hear administrative appeals of FSD or FCP approvals, waivers, or denials. The Department of Planning did not approve the FCP under any authority granted to it under the Land Use Article. Rather, the Department conducted the review and approval by authority granted to it under the MDFCA and the HdGFCA. Thus, while the City’s Board of Appeals can hear appeals of administrative decisions involving land use and zoning matters, it lacks explicit authority to review FCP approvals which are not land use matters.

FCP review and approval is simply not a land use decision under Maryland law. The Maryland Supreme Court recognized the interplay between land use proceedings and the MDFCA in *Chesapeake Bay Foundation v. CREG Westport I, LLC*, 81 Md. 325, 351 (2022) (known locally as the “Abingdon Woods” case). The Maryland Supreme Court concluded that the FSD and FCP review by local planning departments are separate but concurrent with subdivision review under the Land Use Article. In *Abingdon Woods*, the Maryland Supreme Court held that the Harford County Department of Planning and Zoning’s decision was a final agency decision subject to an independent right of appeal to the Circuit Court. *Id.* at 354.

Notably, the land use development review process in *Abingdon Woods* continued administratively with the County’s planning board while the forest conservation plan appeal proceeded through the Circuit and Appellate Courts, further confirming the separate administrative processes. *Id.* at 334.

The Maryland Legislature anticipated the interaction between the Land Use Article and other law, such as the Natural Resources Article, and specifically denied any implied relationship with land use matters:

- (a) Other public general laws *that may affect land use* in a local jurisdiction *under this division [i.e., Division I], Division II of this Art., or otherwise, include:*
  - (1) the Local Government Art.; and
  - (2) *Title 8, Subtitle 18 of the Natural Resources Art.*
- (b) The inclusion or exclusion of a provision of public general law in this section *may not be construed to imply any relationship between the provision and land use matters included in this Article.*

Land Use Art. §1-204 (emphasis added).

In contrast, where the state wanted to delegate such authority, it has done so expressly. *See* Code of Maryland Regulations (“COMAR”) 27.01.12.02 – Local Program Requirements (requires each county or municipality to include variance procedures in its Critical Area Program and to designate the decision-maker). For Critical Area variances, the Board of Appeals is given express authority even though Critical Area was also adopted under the Natural Resources Article. *See* City Code §49-12D (Critical area variances are to be heard by the Board of Appeals). No such grant of power exists regarding FCP approvals, variances, or appeals. Thus, jurisdiction granted by the Maryland Legislature to a municipal created board of appeals under Division I of the Land Use Article does not extend to a review of appeals for FCP approvals adopted under the HdGFCA/MDFCA absent an express grant of power. *See K. Hovnanian Homes of Maryland*, 472 Md. At 295-297 (local law must be read constituent with express powers granted under state law). *See also, Chesapeake Bay Foundation*, 481 Md. at 343-44 (under the model forest conservation act ordinance, a variance request is “not a zoning variance”)(quoting COMAR 08.19.03.01.1E).

This distinction between land use matters and other matters is critical to understanding the limited jurisdiction of the City’s Board of Appeals. Local zoning boards of appeals may be established by municipalities under Title 4 of the Maryland Land Use Art. *See Md. Ann. Code Land Use Art.* §§4-301 to 4-306 and *Local Gov’t Art.* §5-212. The Havre de Grace Board of Appeals was created under the Maryland Land Use Article. The powers and duties of the Havre de Grace Board of Appeals are further defined by City Code §§25-13 through 25-21.2, and its adopted rules and procedures. Specifically, the Board is given administrative review authority under Havre de Grace City Code §25-15A which provides:

Administrative review: to hear and decide appeals where it is alleged that there is an error in any final order, requirement, decision or determination made by any administrative official, department of the City government, the Planning Commission or Historic Preservation Commission in the enforcement and administration of the City Code, the Building Code, the Subdivision Regulations or any other ordinance or regulation which may hereafter be designated by the City Council for such administrative review; provided, however, that appeals alleging error by the Planning Commission or Historic Preservation Commission shall be by oral argument or written statement based solely on the evidence submitted and received in the Planning Commission or Historic Preservation Commission proceedings.

While the City Code may appear to apply to *all* decisions of *any* administrative officials of City government, the City Code must be read consistent with the authority granted by state law and cannot grant more authority than is allowed by state law. *See K. Hovnanian Homes of Maryland LLC, et al. v. Mayor and City Council of Havre de Grace, et al.*, 472 Md. 267, 291-292 (2021). Based on this legal principal, the powers granted to the Board of Appeals under City Code 25 must be interpreted consistent with the limited powers granted to it by the Maryland Legislature under the Land Use Article and the MDFCA.

Moreover, in contrast to the limited jurisdiction of a municipal zoning board of appeals, a county established board of appeals can hear a broader range of matters. The Maryland Legislature under the Local Government Article of the Maryland Annotated Code §10-305 expressly authorizes both charter and code counties to establish a board of appeals with original jurisdiction, or with specific jurisdiction to review actions of any administrative officers or units of County government. By doing so, the Maryland Legislature chose not to limit the jurisdiction of the county boards of appeals. No such broad grant of administrative review power is given to municipalities to create a similar board of appeals. *Compare, Md. Code Local Government Art. §§5-101 to 5-218 with §10-305.* To interpret the Havre de Grace City Code as providing broader jurisdictional powers than those granted by the Maryland Legislature would violate the cardinal rule that municipalities and agencies created by them pursuant to State law cannot exceed the express powers granted. *See K Hovnanian Homes*, 472 Md. At 287-299. Actions taken in a manner inconsistent with the Maryland General Assembly's express grant of power are *ultra vires*. *Id.* at 299-306.

In summary, the Board of Appeals has no legal authority to review FCP approvals because such review exceeds the powers granted to it by the Maryland Legislature under the Land Use Article, the MDFCA, and the HdGFCA, which powers cannot be extended by the City Code. As demonstrated in *Abingdon Woods*, land use decisions are separate from, but concurrent with, forest conservation plan approvals. Accordingly, Petitioners; appeal must be dismissed.

## B. Petitioners Lack Standing

Petitioners' appeal must be dismissed for the additional reason that the Petitioners lack standing. As the Maryland Supreme Court recognized in *Abingdon Woods*, the MDFCA requires local jurisdictions to provide an appeal mechanism for forest conservation plan review but does not specify the forum for such review or who has the right to appeal. *Chesapeake Bay Foundation*, 481 Md. At 349-350. Nor does the MDFCA require municipal adopted forest conservation acts to provide for public participation in the forest conservation plan approval process. In other words, the MDFCA does not by itself confer standing on any specific parties, and the Courts will look to local law to determine standing to appeal. *Id* at 343-344.

Consistent with the COMAR model ordinance, the HdGFCA does not recognize any party participation for FCP approval other than the applicant and, in the case of waiver or variance, DNR. Nor does the HdGFCA identify who may appeal an FCP approval. In contrast, as the Maryland Supreme Court recognized in *Abingdon Woods*, the Harford County Code expressly provided that “*any interested person* whose property is effected [sic] by any decision of the Director of Planning” may appeal within 30 calendar days after the filing such administrative decision. *Id.* at 347. There is no similar provision in the HdGFCA giving “any interested person whose property is” affected by the right to appeal. Thus, Petitioners cannot claim that either the HdGFCA or MDFCA confer standing on Petitioners to file an appeal of an FCP Approval to this Board.<sup>1</sup>

Further, as Petitioners were not parties to the underlying administrative HdGFCA proceedings (because their participation is not provided for under either MDFCA or HdGFCA as discussed above), their appeal must be dismissed. Being a party to the underlying administrative proceeding is a prerequisite to an administrative appeal. *Matter of Carpenter*, 264 Md. App. 138, 168 (2024) (reiterating requirement that appellants must have participated in underlying administrative proceedings); *Greater Towson Council of community Associations v. DMS Development, LLC*, 234 Md. App. 388, 409-410 (2017) (same) (citing *Med Waste v. Md. Waste* 327 Md. 596, 611 (1992)). Petitioners were not parties to the underlying FCP approval and therefore their appeal to this Board must be dismissed.

In addition, Petitioners further fail to meet the Maryland standing requirements because they are not “persons aggrieved.” Pursuant to City Code §25-16B, only persons “aggrieved” may file petitions for administrative review with the Board of Appeals. Maryland law consistently recognizes that only persons aggrieved can appeal an administrative decision. The foundational test for aggrievement is set forth in *Bryniarski v. Montgomery County Board of Appeals*, 247 Md. 137 (1967) -- to be aggrieved a petitioner must demonstrate a personal or property interest adversely affected by the administrative decision, and that the harm is different in kind, not

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<sup>1</sup> The *Abingdon Woods* case does support the Petitioners appeal to the Board of Appeals here. In that case, the Court held that the approval of the forest conservation plan was a final agency decision appealable to the Circuit Court. The *Abingdon Woods* petitioners appealed directly to the Circuit Court, not to the County Board of Appeals.

merely degree, from that suffered by the general public. Mere property ownership, residency, or citizenship in the local community is not enough to confer standing. *Greater Towson Council*, 234 Md. App. at 409-10 (property ownership alone does “provide unfettered access to the courts to citizens unhappy with all actions taken by state or local governing bodies . . .”)(quoting *Anne Arundel County v. Bell*, 442 Md. 539, 476 (2015)). This is consistent with the statutory requirement for appeals of Land Use decisions filed with the Board of Appeals. Pursuant to the Land Use Art. §4-306(a), only a “person aggrieved” from a final decision of an administrative officer may file an appeal to the Board of Appeals. See *Bryniarski v. Montgomery County Board of Appeals*, 247 Md. 137, 143 (1967); *Greater Towson Council*, 234 Md. App. at 410-418 (discussion of aggrievement considerations)(citations omitted). Thus, even assuming that this Board has legal authority to hear appeals of Natural Resources matters (as opposed to only Land Use matters), and that Petitioners participated in the FCP approval process (which they did not), Petitioners have failed to show they are “aggrieved” persons for the reasons discussed more fully below.

None of the Petitioners claims to be a direct adjoining landowner, i.e., one that shares a common boundary with either Tierra Verde Enterprises LLC or MJER LLC, the legal entities which own the parcels in The Legacies subdivision. Only one Petitioner, Tammis Coit, claims to be an “adjacent” property owner. However, Maryland courts do not treat an “adjacent landowner” as automatically bestowed with standing, absent some type of particularized harm. *Bhargava v. Prince George’s County Planning Board*, 265 Md. App. 172, 197-198 (2025) (adjacent property owners had no standing to appeal forest conservation plan variance where no cognizable interest in the subject trees was asserted). Rather, adjacency is merely evidentiary, serving only as a proxy for presumed special aggrievement. The presumption applies only where the appellant’s property is so physically proximate that adverse impacts are likely and direct.

While there is no bright line rule, the Courts will consider several factors to determine if a property owner is aggrieved and whether the presumption applies. For example, to be “prima facie” aggrieved, the Petitioners would need to show their property is adjoining or less than 200 feet from the property to be rezoned. *Greater Towson Council*, 234 Md. App. at 410-411. But if the property is 200-1000 feet away, a petitioner will only be deemed “almost” prima facie aggrieved and must allege some special harm. *Matter of Carpenter*, 264 Md. App. 138, 177-79 (2024). (property owners more than 200 feet away were not prima facie aggrieved and required analysis of facts showing special harm). Here, Petitioner Coit owns 1724 Scenic Manor Drive, a parcel with Tax ID 09-000366. A review of publicly available information shows that Petitioner Coit’s parcel is more than 700 feet from the MJER LLC property line and more than 2000 feet from edge of the tree canopy where some trees may be removed as part of The Legacies subdivision. Because Petitioner Coit’s property is not less than 200 feet from the property line she has no presumption of aggrievement absent special circumstances. At best, Petitioner Coit is “almost prima facie” aggrieved and must articulate harm which separates her aggrievement from the

public generally. *Id.* Petitioner Coit has not alleged any facts which distinguish her from harm to the public generally.

Further, Maryland Courts have held that where one or more intervening parcels and roads exist, aggrievement is defeated absent extraordinary circumstances. *See DuBay v. Crane*, 240 Md. 180, 185-186 (1965) (party not aggrieved where property was 1500 feet from rezoning classified property and separated by Beltway). Here, the Sion Hill Estates development (now called “Scenic Vista”) lies between the Coit Parcel and The Legacies development. As shown on the attached Exhibit, immediately behind Petitioner Coit’s parcel is an existing hedgerow/treeline on property owned by a third party which is not part of any development and contains a single family residence with an accessory dwelling unit. The hedgerow/treeline lies between Petitioner Coit’s parcel and Scenic Vista. In the Scenic Vista residential development, which consists of approximately 144 single family homes, some of which have yet to be constructed, two residential streets are or will be constructed parallel to the existing hedgerow/treeline, with four parallel rows of newly constructed or to be constructed single family residential homes. See Exhibit A and B. Under this set of facts, Petitioner Coit has failed to establish special aggrievement under Maryland law.<sup>2</sup>

As to the remaining Petitioners, if adjacency does not exist, the presumption does not arise, and the Petitioners then bear the burden of alleging specific, non-speculative harm. *Kendall v. Howard Cnty.*, 431 Md. 590, 604–06 (2013). Maryland Courts have repeatedly denied standing to petitioners who live more than 1000 feet from rezoning sites. *See Ray v. Mayor and City Council of Baltimore*, 430 Md. 74, 92-93 (2013) (“protestants who lived more than 1000 feet from rezoning site have repeatedly been denied standing.”) (quotation omitted). Petitioners have failed to allege, let alone establish, extraordinary circumstances or specific, non-speculative harm to confer standing. *Id.* (petitioners were not specially aggrieved where they lived 0.4 miles from a planned unit development and provided no additional evidence of harm). Indeed, the Petitioners fail to allege any special pecuniary injury to their respective properties, such as loss of access, diminution in property value, interference with use and enjoyment, or any other specific harm. Instead, they assert generalized environmental concerns, such as loss of tree canopy, removal of trees from a historic site, habitat fragmentation, and procedural compliance with forest conservation laws. Maryland courts have consistently held that such generalized grievances do not confer standing. *See Greater Towson Council v. DMS Development, LLC*, 234 Md. App. 388 (2017); *Maryland–Nat’l Capital Park & Planning Comm’n v. Smith*, 333 Md. 3, 9–10 (1993) (agency not aggrieved where it did not suffer monetary loss and had no special interest at stake different from the general public). Allegations of mere citizenship or residence

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<sup>2</sup> None of the remaining Petitioners are geographically adjacent landowners (see attached Exhibit B) and they allege no special harm. Thus, they are irrelevant to the adjacency analysis.

are insufficient. Based on the above, Petitioners have no standing to appeal the FCP Approval, and the appeal should be dismissed.

### **C. Petitioners Failed to Timely Appeal**

Finally, Petitioners appeal should be dismissed because it was not timely filed with the Board of Appeals. Petitioners filed a notice of appeal with the Board of Appeals, 52 days after the February 27, 2026 FCP approval. See Exhibit C. Notwithstanding this Board's lack of authority to hear this appeal, once Petitioners elected to pursue their appeal with the Board of Appeals, they were obligated to follow the applicable rules, procedures, and statutory law to perfect that appeal. The starting point for appeals to the Board of Appeals is an analysis of both The Land Use Art. §4-306 and City Code §25-16 which require two mandatory jurisdictional elements relevant here:

- A strict 30 day deadline and
- Filing of the appeal with the Director of Administration, Director of Planning AND Board of Appeals

Petitioners failed to comply with these strict requirements. Pursuant to Land Use Art. §4-306(b):

*A person shall file an appeal within a reasonable time provided by the rules of the board of appeals by filing with the administrative officer or unit from whose action the appeal is taken and with the board of appeals a notice of appeal specifying the grounds of the appeal.*

(emphasis added). City Code 25-16A(1) provides the time element and requires that appeals to the Board of Appeals must be filed within 30 days of the administrative decision. The City Code does not authorize the City's Director of Administration to serve the Petition on the Board of Appeals on Petitioner's behalf. Thus, assuming for the sake of argument that this Board even has authority to hear this FCP appeal, Petitioners were required to file their appeal with *both* the Director of Planning (as the administrative officer from whom the appeal was taken) *and* the Board of Appeals (per Land Use Art. 4-306(a)) in addition to the Director of Administration within 30 days of the FCP Approval.

Here, Petitioners attempted to initiate their appeal on March 6, 2026 when they emailed their Original Petition to the Director of Administration, with a courtesy copy to the Director of Planning. See City Code §25-16B. This service on the Director of Administration per the City Code is in addition to, and does not supplant, other applicable filing requirements under the Land Use Article. The Land Use Article does not reference the Director of Administration at all nor does it require the Director of Administration to complete the appeal process for the Petitioners. The Petitioners' failure to complete their service or filing due to an alleged failure of a government employee does not excuse a requirement set by state statute. *See Salisbury Bd. of Zoning Appeals v. Bounds*, 311 Md. 297, 302-03 (1987) (rejecting appellant's blaming of Commission for his inability to perfect appeal because transcript was not yet available). The

Director of Administration in this instance is akin to a Court Clerk who receives documents for filing but does not advise petitioners on how to perfect an appeal under applicable state law. *See Md. Rule 7-202 and 7-203*. Further, a petition shall not be accepted for filing if it does not contain the required information. See City Code §25-16B. The Director of Administration here did review the Original Petition for completeness and determined it was initially deficient for failure to provide the “List of Parties” required under City Code §25-16C(3)(e). Petitioners eventually submitted the list of parties via email to the Director of Administration on March 25, 2026 and submitted a final exhibit K on March 29, 2026. Petitioners did not file a notice of appeal with the Board of Appeals until April 20, 2026, well after the 30 day deadline. *See e.g., Francois v. Alberti Van & Storage Co., Inc.* 285 Md. 663 (1979) (untimely filing requires dismissal).

Maryland case law makes clear that where a rule, statute, or ordinance specifies the parties upon whom an appeal must be filed, failure to do so warrants dismissal. *See Salisbury Bd. of Zoning Appeals v. Bounds*, 311 Md. 297, 302-03 (1987) (failure to comply with statutory appeal requirements mandates dismissal); *Housing Opportunities Commission of Montgomery County v. Herrera*, 2020 WL 2316640 (Md. App. Ct., May 11, 2020) (unreported opinion) (affirming dismissal of administrative appeal where all parties required to be served by Court Rules was not done). Here, Land Use §4-306(a) requires filing with both the agency who rendered the decision being appealed (here, the Director of Planning), and the Board of Appeals. State law prescribes the parties upon whom the appeal must be filed, and the City’s Code does not eliminate Petitioners’ responsibility to follow this requirement, nor could it. *See e.g., K. Hovnanian Homes of Maryland*, 472 Md. at 295- (City Charter must be read consistent with powers granted by state law; municipal actions taken in a manner inconsistent with Express Powers granted by the General Assembly are *ultra vires*). The City Code merely established the additional party upon whom the petition was to be filed. Thus, the appeal was untimely pursuant to the requirements of the Land Use Art. §4-306(b) and City Code §26-16A(1) because it was not filed with both the Director of Planning and Board of Appeals in addition to the Director of Administration until after the 30 days deadline. Since no jurisdiction vested in this Board within 30 days, the appeal must be dismissed.

#### **IV. Conclusion**

For the foregoing reasons, the Board of Appeals lacks subject-matter jurisdiction over appeals of Forest Conservation Plan approvals, the Petitioners lack standing as “persons aggrieved” under Maryland law, and Petitioners failed to timely file their appeal with the Board of Appeals. For these reasons, the appeal must be dismissed.

Respectfully Submitted,

April C Ishak

April C. Ishak, City Attorney

AC Ishak Law LLC

800 S. Union Ave.

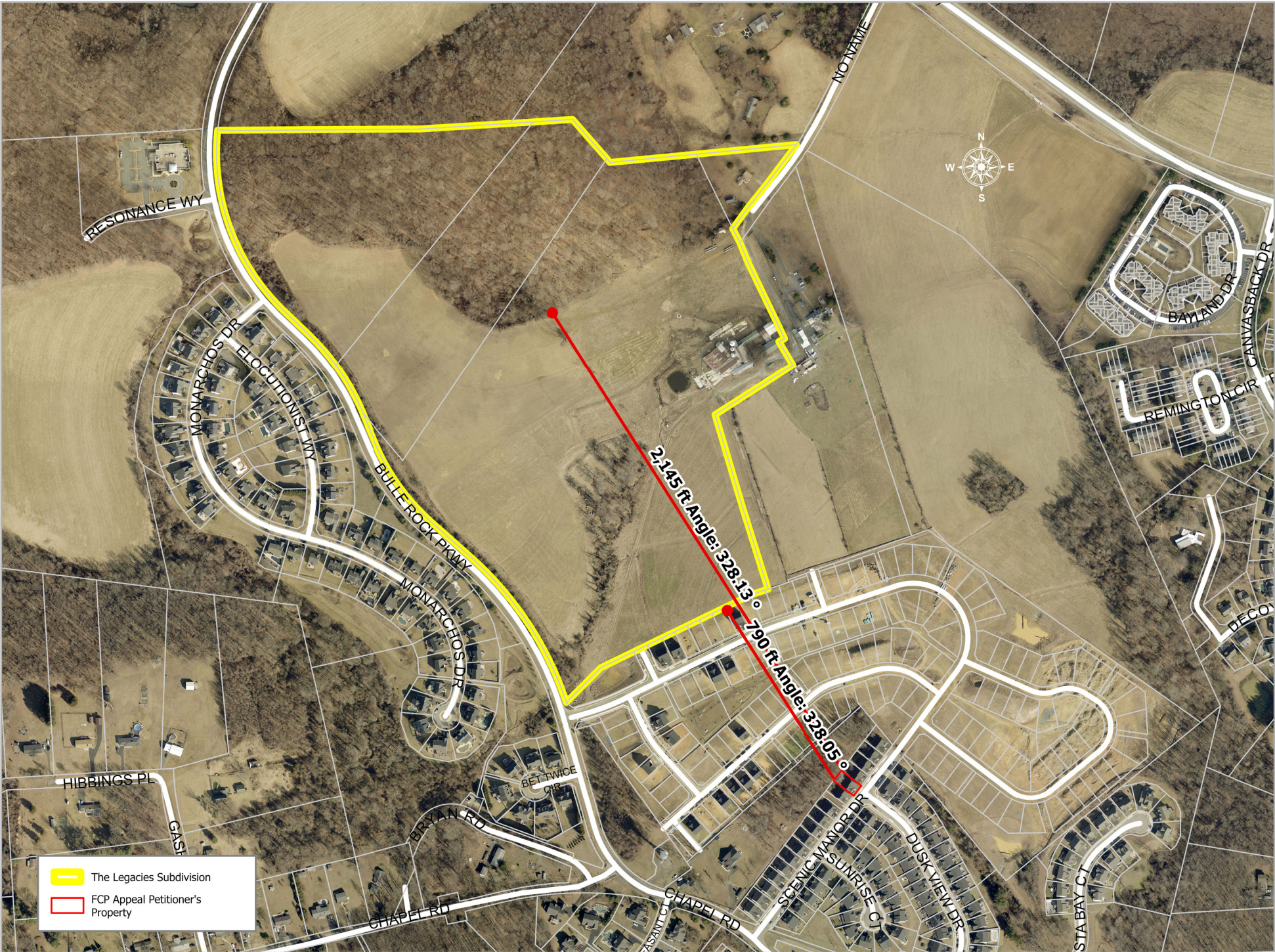
Havre de Grace, MD 21078

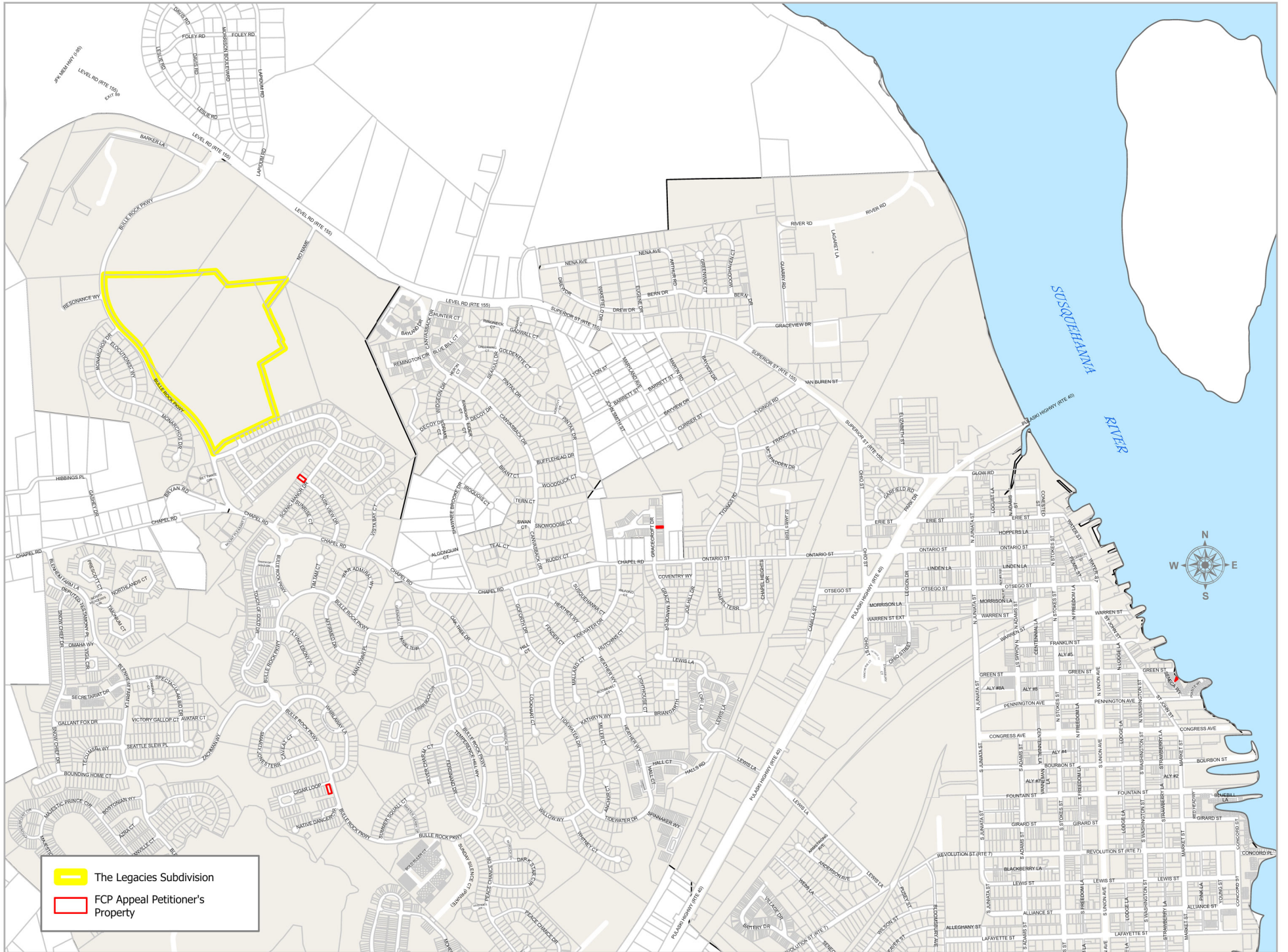
Tel. 443-502-5558

april@ishaklaw.com

*On behalf of Geoff Goins, Director of  
Planning and the City's Department of  
Planning*

Cc: Geoff Goins, Director of Planning, for service on Petitioners and Board of Appeals  
Christopher Ricci, Director of Administration  
Kevin Best, Attorney for Board of Appeals (via email only)  
Adam Baker, Attorney for Applicant/Green Family/The Legacies (via email only)





The Legacies Subdivision  
 FCP Appeal Petitioner's Property