

**Sayers, Margery**

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**From:** joel hurewitz <joelhurewitz@gmail.com>  
**Sent:** Monday, April 29, 2019 1:43 PM  
**To:** CouncilMail  
**Cc:** Delorenzo, Carl  
**Subject:** CR49-2019: The DRRRA Does Not Include the Required Description of Permits  
**Attachments:** CR49-2019 The DRRRA Does Not Include the Required Description of Permits.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Councilmembers,

Attached please find my fifth email with analysis on the DRRRA--"CR49-2019: The DRRRA Does Not Include the Required Description of Permits."

Joel Hurewitz

## **CR49-2019: The DRRA Does Not Include the Required Description of Permits**

**Joel Hurewitz     April 29, 2019**

Sec. 16.1703n (a)(7) of the Howard County Code states that a DRRA includes "A description of the permits required or already approved for the development of the real property." The Chase Quarry DRRA description of permits is vague and incomplete.

**4.2     Approvals Required. Chase has previously obtained the Special Exception Approval, approval of a site development plan, and all similar permits and approvals necessary to construct and operate the Quarry on the Quarry Property. Chase shall obtain all further permits and approvals necessary under any existing provision of local, Maryland, or federal law regarding the continued use and operation, future development, and redevelopment of the Quarry Property. Petitioner shall obtain all permits and approvals necessary under any existing provision of local, Maryland, or federal law regarding the development, redevelopment, operation, and use of the Undeveloped Petitioner Property.**

Chase Land DRRA

Black's Dictionary defines a "description" in part to be "a written enumeration of items . . . like an inventory, but with more particularity." Stating that Chase will obtain "all similar permits" or "all further permits and approvals necessary under any existing provision of local, Maryland, or federal law" really just states the obvious. This is not really an enumeration of what type of permits these include. In addition, stating that Chase will comply with local, Maryland, or federal law is a bit redundant, as it just repeats paragraph 24 from the Board of Appeals Order:

**24.     The Petitioner shall comply with all applicable federal, State, and County laws and regulations.**

Board of Appeals Order

## Permits Listed in Other DRRAs

Compare this with the much more detailed list in the Doughoregan/Carroll DRRA. (The Doughoregan/Carroll DRRA was also drafted by Talkin & Oh; it is unclear why this was not used as the template in for Section 4.2 in the Chase DRRA).

2.4 APFO Approval. The Carrolls shall be required to obtain APFO Approval for the Project.

2.5 Other Development Approvals and Permits. All sections of the Project shall be required to obtain all applicable Development Approvals and all other applicable requirements of the County Code for land development, including but not

limited to site improvement plans (for water, sanitary sewer, storm water management and storm drainage and sediment and erosion control improvements), forest conservation requirements, Subdivision Plat(s) including any required dedications of land consistent with the County Code, building permits, and occupancy permits. The Project shall also be required to obtain all applicable Maryland or federal approval(s) and permits.

Doughoregan /Carroll DRRA CR103-2010

Similarly, compare the list in the Frederick County Monrovia Town Center DRRA.

2.3 Other Development Approvals and Permits. The Project shall be required to comply with all other applicable requirements of the County Code for land development, including, but not limited to, site improvement plans (for water, sanitary sewer, and storm drainage and sediment, and erosion control improvements), water and sewer amendments, Subdivision Plats, building permits, and occupancy permits. The Project shall also be required to obtain all applicable State or federal approvals and permits.

[https://www.frederickcountymd.gov/DocumentCenter/View/264108/Monrovia-Town-Center-DRRA\\_DRAFT\\_20Aug2013?bidId=](https://www.frederickcountymd.gov/DocumentCenter/View/264108/Monrovia-Town-Center-DRRA_DRAFT_20Aug2013?bidId=)

## Numerous Permits and Approvals on SDPs

The lack of specificity to the permits that the Quarry currently has and will be required is made all the more apparent when one notes the numerous MDE, HCSD, and other agency permits listed on the various site development plans and other development drawings.

28. ALL FILL AREAS WITHIN ROADWAY AND UNDER STRUCTURES TO BE COMPACTED TO A MINIMUM OF 95% COMPACTION OF AASHTO T180.
29. THE PAVEMENT DETAILS SHOWN FOR THIS SITE REFLECT THE HOWARD COUNTY STANDARD PAVEMENT SECTIONS AND ARE NOT BASED ON SITE SPECIFIC CONDITIONS. PRIOR TO PAVING THE FINAL PAVEMENT SECTIONS SHALL BE DETERMINED BY A QUALIFIED GEOTECHNICAL ENGINEER BASED ON IN-SITU TESTING OF THE FINISHED SUBGRADE.
30. THIS PROJECT IS EXEMPT FROM THE REQUIREMENTS FOR FOREST CONSERVATION UNDER SECTION 16.1202.b.1.ix OF THE SUBDIVISION REGULATIONS. A RECLAMATION PLAN WILL BE ENACTED AFTER CESSATION OF THE QUARRY ACTIVITIES, IN CONJUNCTION WITH MDE PERMIT NO.(S) 02-SP-0599, APPROVED ON DECEMBER 22, 2003.
31. SEDIMENT CONTROL PLAN FOR THIS PROJECT IS VALID FOR A PERIOD OF TWO YEARS AFTER HCSD SIGNATURES, AND MUST BE RESUBMITTED BEFORE EXPIRATION FOR ASSESSMENT AND APPROVAL.
32. WP-00-34 A WAIVER PETITION REQUEST TO WAIVE SECTIONS 16.115 AND 16.116(a) WAS APPROVED ON APRIL 10, 2000 SUBJECT TO THE FOLLOWING CONDITIONS:
  1. THIS WAIVER APPROVAL APPLIES ONLY TO THE PROPOSED AREAS OF ENVIRONMENTAL DISTURBANCES IDENTIFIED AS "AREAS #1-6" (WETLAND AND STREAM DISTURBANCES) AND "FLOODPLAIN AREAS #1-3" (FLOODPLAIN AND STREAM DISTURBANCES) AS SHOWN ON THE WAIVER PETITION EXHIBIT RECEIVED BY THE DEPARTMENT OF PLANNING AND ZONING ON 2/24/2000.
  2. THE PETITIONER MUST OBTAIN APPROVAL OF THE SITE DEVELOPMENT PLAN (SDP-99-134) PRIOR TO ISSUANCE OF ANY PERMITS FOR CONSTRUCTION OR GRADING ON SITE.
  3. ALL GRADING AND CLEARING WITHIN THE FLOODPLAINS, WETLANDS, WETLAND BUFFERS, AND STREAM BUFFERS SHALL BE MINIMIZED AND SHALL COMPLY WITH THE APPROVED GRADING AND SEDIMENT EROSION CONTROL PLAN SHEETS, WHICH ARE TO BE PART OF SDP-99-134. STABILIZATION SHALL BE INITIATED IMMEDIATELY FOLLOWING THE GRADING AND CLEARING.
  4. THE PETITIONER SHALL OBTAIN ALL APPLICABLE PERMITS FROM THE MARYLAND DEPARTMENT OF ENVIRONMENT AND/OR THE DEPARTMENT OF NATURAL RESOURCES, PRIOR TO COMMENCEMENT OF ANY DISTURBANCE TO THE ENVIRONMENT AREAS ON SITE.
33. NO QUARRY OR MINING SHALL OCCUR UNDER THIS PLAN. THIS PLAN IS FOR THE CONSTRUCTION OF OPERATION AREA AND REMOVAL OF OVERBURDEN ONLY.
34. A WETLANDS PERMIT HAS BEEN APPLIED FOR UNDER TRACKING NUMBER 200262372.

SDP-99-134 page 1



SDP-17-064 page 1

As discussed more in depth in the Legal and Equitable Interests email, the permit to Savage Stone for the mining permit is particularly problematic. Chase Land cannot **operate** the quarry; the mining permit is held by Savage Stone. Thus, this shows why Savage Stone is perhaps a necessary party to the DRRA.

## Water Tower Purchase and Sale Agreement Permits and Approvals

Permits and approvals were also discussed the Water Tower Purchase and Sale Agreement:

(i) Seller has prepared and obtained a grading permit for the grading plans entitled "Erosion and Sediment Control Plan for Chase Property at Mission Road" dated May 11, 2017 and executed June 8, 2017, and the site development plan entitled "Site Development Plan for Chase Property at Mission Road" (SDP 17-064) approved by the County on August 24, 2017 attached hereto and made a part hereof as **Exhibit F** (the "Approved Plans"). Seller shall, at its

Water Tower Purchase and Sale Agreement page 18

(iii) The Grading and Construction Work and the New Road Grading as described herein shall be conducted in accordance with all local, state, and federal laws governing such operations. Seller shall be solely responsible for (i) obtaining all permits required for the Grading and Construction Work and the New Road Grading and, except to the extent the same may be or have been waived or deferred by the County, the costs of all permits required for the Grading and Construction Work and the New Road Grading, with the exception of any permits or approvals from the Maryland State Highway Administration ("SHA") (which SHA permits and approvals shall be obtained by Purchaser in the course of Purchaser's construction of the New Road as provided in Section 13.A below) and (ii) any mitigations required for the performance of

Water Tower Purchase and Sale Agreement page 19

(v) Notwithstanding anything to the contrary contained in this Agreement, Seller and Purchaser acknowledge and agree that the Grading and Construction Work and the New Road Grading shall not include, and Seller shall not be obligated to perform, Item 9 of the Overall Sequence of Operations shown on Sheet 1 of the Site Development Plan attached hereto as **Exhibit F** ("all trap/basins shall be removed no later than 3 yrs. from Howard Soil Conversation District signature approval") or substantially similar language contained elsewhere in the Approved Plans (the "**Basin Removal Requirement**"); however, the Seller shall ensure that

Water Tower Purchase and Sale Agreement page 19

## Conclusion

Thus, for these reasons and others, the DRRA law requires a more detailed list of permits.

(The Howard County Solicitor was made aware of these general issues, but he appears to not fully understand the problems presented and believes the permits provision of the DRRA is sufficiently drafted).



## Sayers, Margery

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**From:** Becki Vivrette <rvivrette@gmail.com>  
**Sent:** Monday, April 29, 2019 12:53 PM  
**To:** CouncilMail  
**Subject:** CR49-2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council Members,

I am writing to you regarding my significant concerns regarding CR49-2019, the legislation related to the DRRRA for the Mission Rd. property. My children live in the Hunt Club area of Elkridge along the Route 1 corridor, are currently zoned to the 7% ELMS-LRHS feed, and would be redistricted to HS13 under the "illustrative" scenario provided by HCPSS OSP in March 2018.

First, I am concerned about the timing of the introduction of the DRRRA. As multiple members of the Board of Education testified, they were not made aware of the DRRRA at the time of site selection, and that moving forward with the site would be contingent on agreeing to the terms of the DRRRA. Surely, discussions about the DRRRA had occurred between the property owner and the County prior to December 2018. Why wait until after school site selection to introduce its terms? Further, CR49-2019 was filed at the latest possible date for HCPSS to request state funds required to begin construction, which occurs annually in May. Given that HS13 site selection occurred over 1 year ago, why was the legislation introduced to the Council at the latest possible hour? Delaying the DRRRA's introduction creates a false narrative -- some might argue purposefully so -- that the Council must approve CR49-2019 immediately, even if its terms are harmful to the future of the Route 1 Corridor, else risk losing the property. Regarding the stated urgency of HS13 opening, the initial timeline for the opening of HS13 was 2024; that timeline was bumped up by 2 years in order to avoid redistricting, then was delayed to 2023. With redistricting now occurring in 2020-21, which will relieve some overcrowding in the Northeast, it is more important for us to get this right rather than make decisions that will negatively impact the Route 1 corridor and the county as a whole for decades to come. This land is needed for schools, but not at the expense of development exemptions in an already over-developed corridor.

I am also concerned about the amendment that was filed the day of the public hearing, offering limited time for the public to consider it and respond. Although at first glance, the elimination of freezing APFO and environmental regulations, and requiring re-approval every 5 years, appears to be an improvement to the Resolution, the final clause seems to create a loophole for the quarry and re-development exemptions, primarily through the use of the word "affect". It reads "...however, that the provisions of this Section 1.8 shall not apply to, and the Quarry Property and the Undeveloped Petitioner Property shall not be required to comply with, any legislative, executive, or quasi-judicial action passed or enacted after the Effective Date of this Agreement that specifically **affects** or targets, or could **reasonably be construed to specifically affect** or target, the Quarry Property, and/or the Undeveloped Petitioner Property, and/or quarries or quarry properties generally." If any change in law or regulation negatively affects plans for continued blasting or re-development, then Chase Land would presumably be exempt from these changes for up to 25 years. I would request that this final clause be removed from the DRRRA, or at minimum, removing the word "affect" from the clause.

Lastly, I am concerned that the re-approval process for the DRRRA can continue for up to 25 years. Chase Land/Savage Stone has repeatedly said they have about 10-13 years of blasting left, so why are we extending that period another 12-15 years beyond that timeframe, if the primary purpose is to protect the current zoning for quarry operations? I would request that the maximum timeframe be limited to 15 years with 5 year re-approval terms.

Thank you,  
Becki Vivrette  
6722 Burnbridge Hunt Ct.  
Elkridge, MD 21075

## Sayers, Margery

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**From:** joel hurewitz <joelhurewitz@gmail.com>  
**Sent:** Thursday, April 25, 2019 4:09 PM  
**To:** CouncilMail  
**Subject:** CR49-2019: DRRR Map Discrepancies  
**Attachments:** CR49-2019 DRRR Map Discrepancies .pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Councilmembers,

Attached please find CR49-2019 DRRR Map Discrepancies.

Joel Hurewitz

**CR49-2019: There Are Discrepancies in the DRRA Map When Compared  
to the County GIS Map and Other Land Records**

**Joel Hurewitz     April 25, 2019**

There are discrepancies from what is shown on the DRRA Map for the Petitioner Property and what appears on the Howard County GIS maps and on other land records. The Petitioner should verify whether the discrepancies are intentional or inadvertent and whether the metes and bounds in Exhibit A fairly reflect the intended extent of the Petitioner Property and whether Exhibit A is fairly depicted on the DRRA Map.

The most visible discrepancy is where the CSX Railroad property is omitted from the DRRA Map north of Mission Road. (In addition, there is a narrow sliver of property between the CSX and the non-Chase outlots).

The County GIS shows a small triangular Chase parcel between Mission Road and Interstate 95.

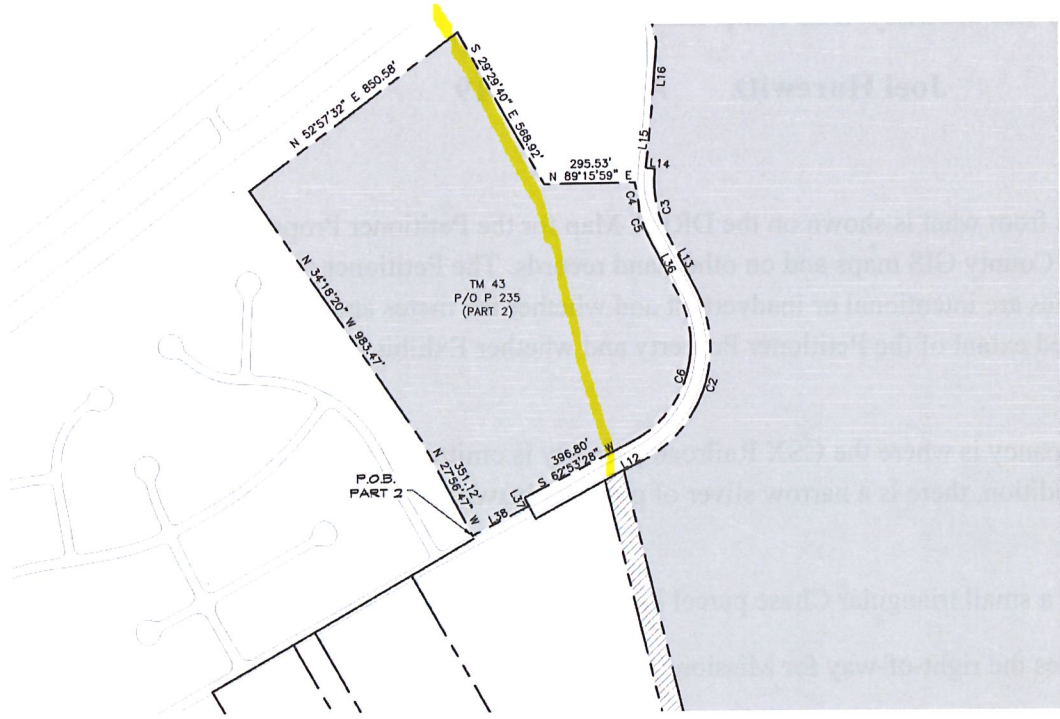
The DRRA Map includes the right-of-way for Mission Road in the area adjacent to the Ridgely's Run Community Center.

There is a small omitted portion of P235 across from 8196 Mission Road. This is on the DRRA Map where it says "L7" adjacent to Mission Road.

These discrepancies are shown in more detail in the exhibits below.



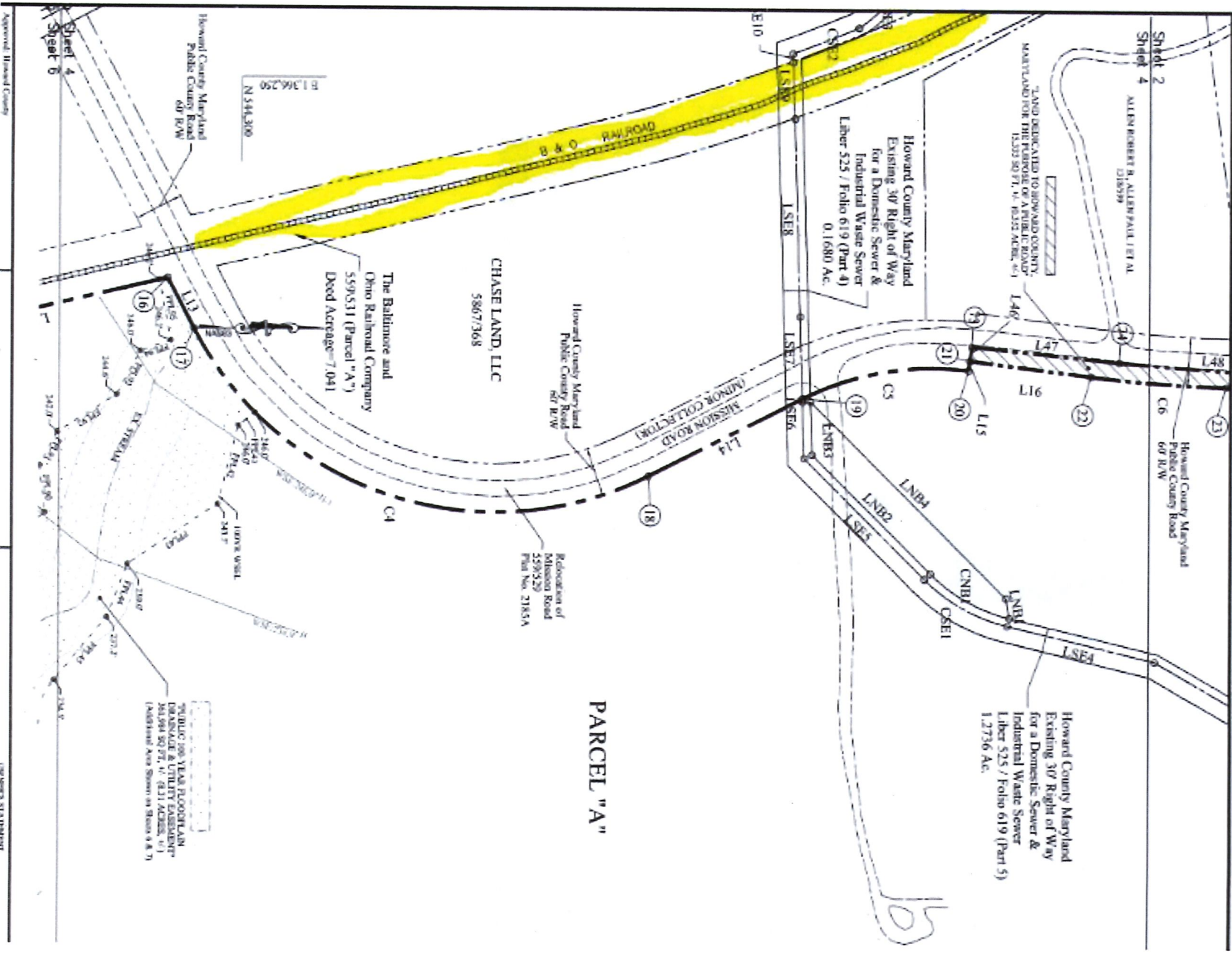
# MISSING CSX RAILROAD



DRRA Map: Omitted CSX Railroad North of Mission Road



County GIS: CSX Railroad North of Mission Road Highlighted in Red



**PARCEL "A"**

1  
 PUBLIC 100-YEAR FLOODPLAIN  
 DRAINAGE & UTILITY EQUIPMENT  
 151294 SQ FT, +/- (8.11 ACRES, +/-)  
 (Additional Area Shown as Shown 9 & 7)

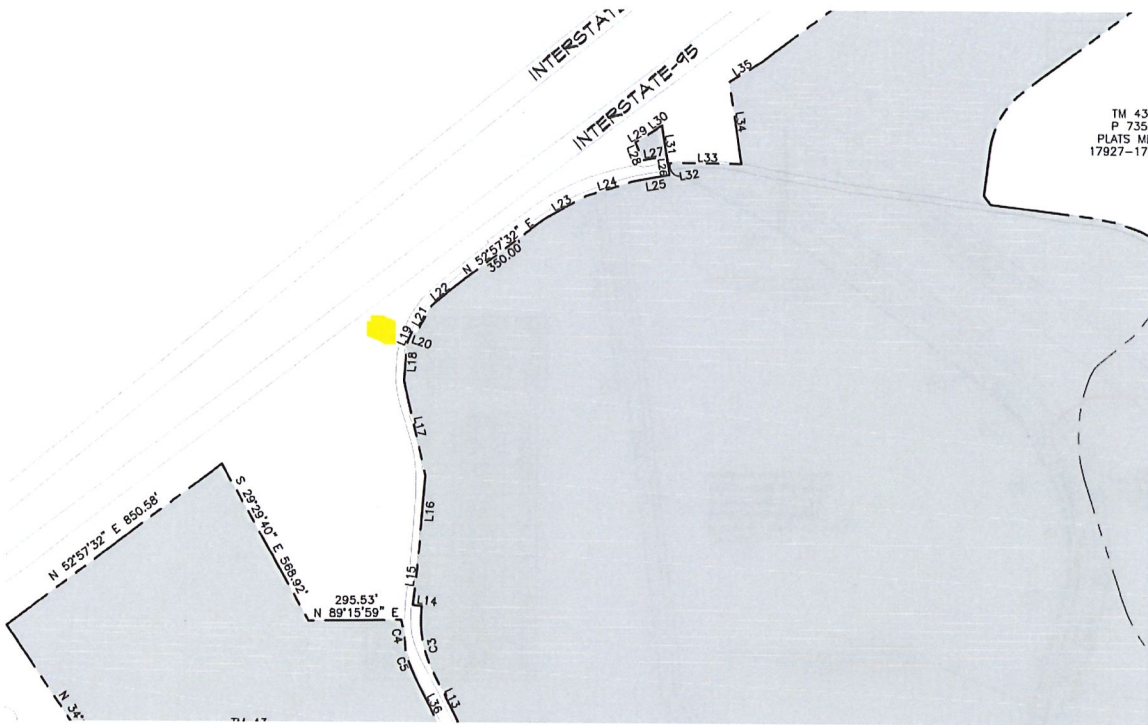


**NARROW PARCEL ADJACENT TO CSX**

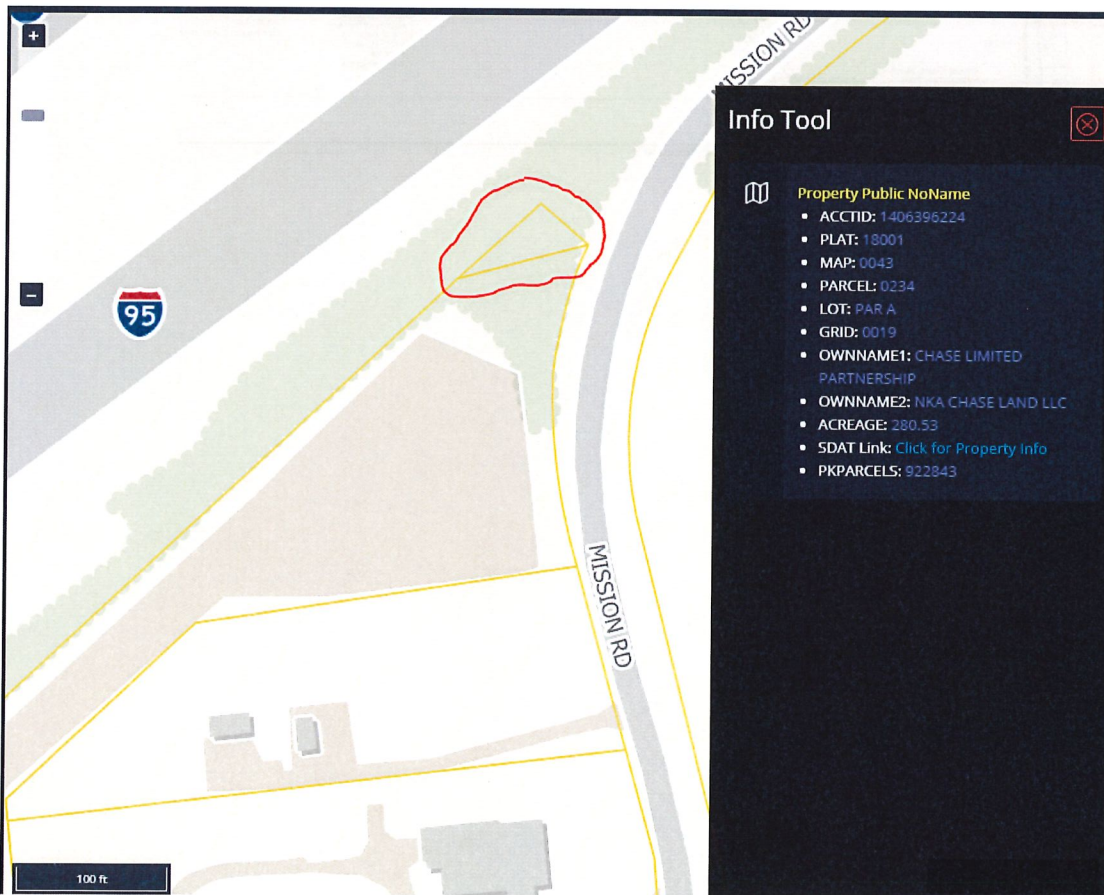


County GIS: Narrow Sliver Chase Parcel Between Railroad and Non-Chase Parcels  
(Approximately 11 feet at widest point).

TRIANGULAR CHASE PARCEL BETWEEN MISSION ROAD AND I-95



DRRA Map: Omitted Small Triangular Chase Parcel



County GIS: Small Triangular Chase Parcel Between Mission Road and I-95

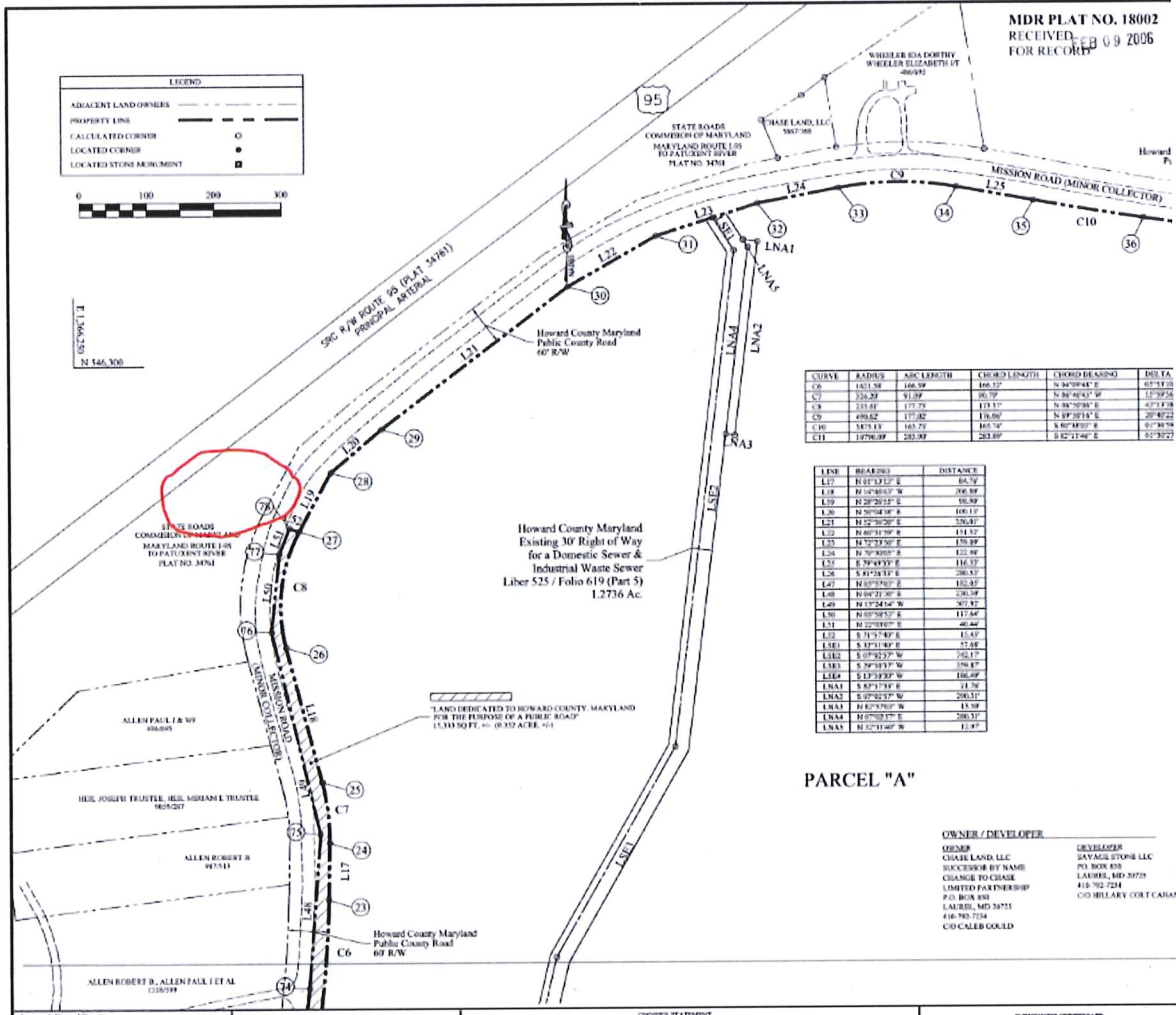
MDR PLAT NO. 18002  
 RECEIVED 09 09 2006  
 FOR RECORD

LEGEND

ADJACENT LAND OWNERS	---
PROPERTY LINE	---
CALCULATED CORNER	○
LOCATED CORNER	●
LOCATED STORM MEASUREMENT	■



UTM  
 N 446,300



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA
C6	151.58	166.39	166.57	N 86°04'41" E	07°11'28"
C7	125.29	91.89	96.79	N 86°04'41" W	15°29'58"
C8	131.41	131.79	133.10	N 86°04'41" E	07°11'28"
C9	499.62	137.82	138.89	N 87°01'14" E	20°04'24"
C10	187.13	163.79	165.50	S 86°03'07" E	07°30'59"
C11	1976.89	283.99	283.89	S 87°11'46" E	51°30'22"

LINE	BEARING	DISTANCE
L17	R 147°32'12" W	86.79
L18	R 10°46'03" W	206.89
L19	R 22°29'22" E	106.89
L20	R 90°04'08" E	100.11
L21	R 52°36'20" E	356.81
L22	R 66°01'39" E	114.37
L23	R 75°01'01" E	155.89
L24	R 79°30'05" E	412.89
L25	S 76°44'51" E	116.37
L26	S 61°28'37" E	286.37
L27	R 83°07'07" E	116.87
L28	R 10°01'30" W	258.89
L29	R 17°24'06" W	303.87
L30	R 10°07'30" E	117.89
L31	R 17°00'00" E	49.89
L32	S 71°57'49" E	13.87
L33	S 33°41'49" E	37.89
L34	S 10°02'39" W	75.17
L35	S 79°19'17" W	198.87
L36	S 11°33'39" W	186.89
L37	S 85°17'31" E	11.36
LNA1	S 10°02'39" W	286.37
LNA2	R 10°07'30" W	11.89
LNA3	R 10°07'30" E	286.37
LNA4	R 10°01'30" W	11.87

Howard County Maryland  
 Existing 30' Right of Way  
 for a Domestic Sewer &  
 Industrial Waste Sewer  
 Liber 525 / Folio 619 (Part 5)  
 1.2736 Ac.

LANDS BEING ALIEN TO HOWARD COUNTY MARYLAND  
 FOR THE PURPOSE OF A PUBLIC ROAD?  
 15,333 SQ. FT. = 0.352 ACRES ±

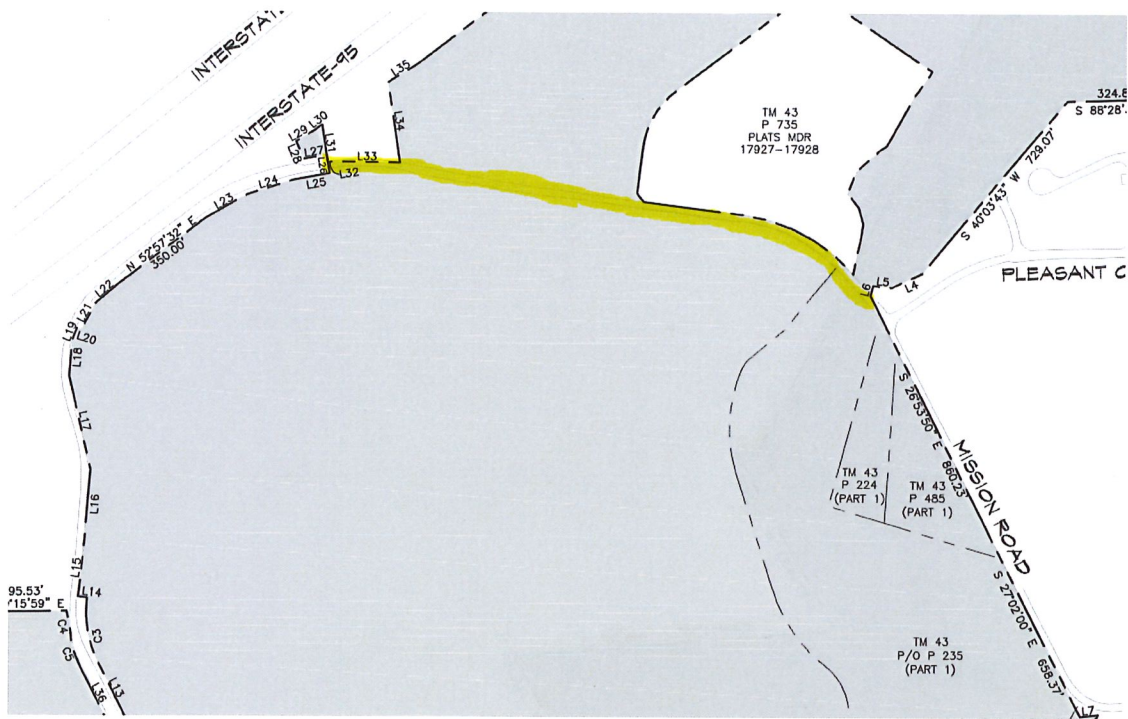
PARCEL "A"

OWNER / DEVELOPER	DEVELOPER
CHASE	SAVAGE STONE LLC
CHASE LAND, LLC	701 BOX 838
SUCCESSOR BY NAME	LAUREL, MD 20775
CHANGE TO CHASE	418-752-7214
LIMITED PARTNERSHIP	635 HILLARY COURT CASH
P.O. BOX 838	
LAUREL, MD 20775	
418-760-7254	
CO-CHAIR	

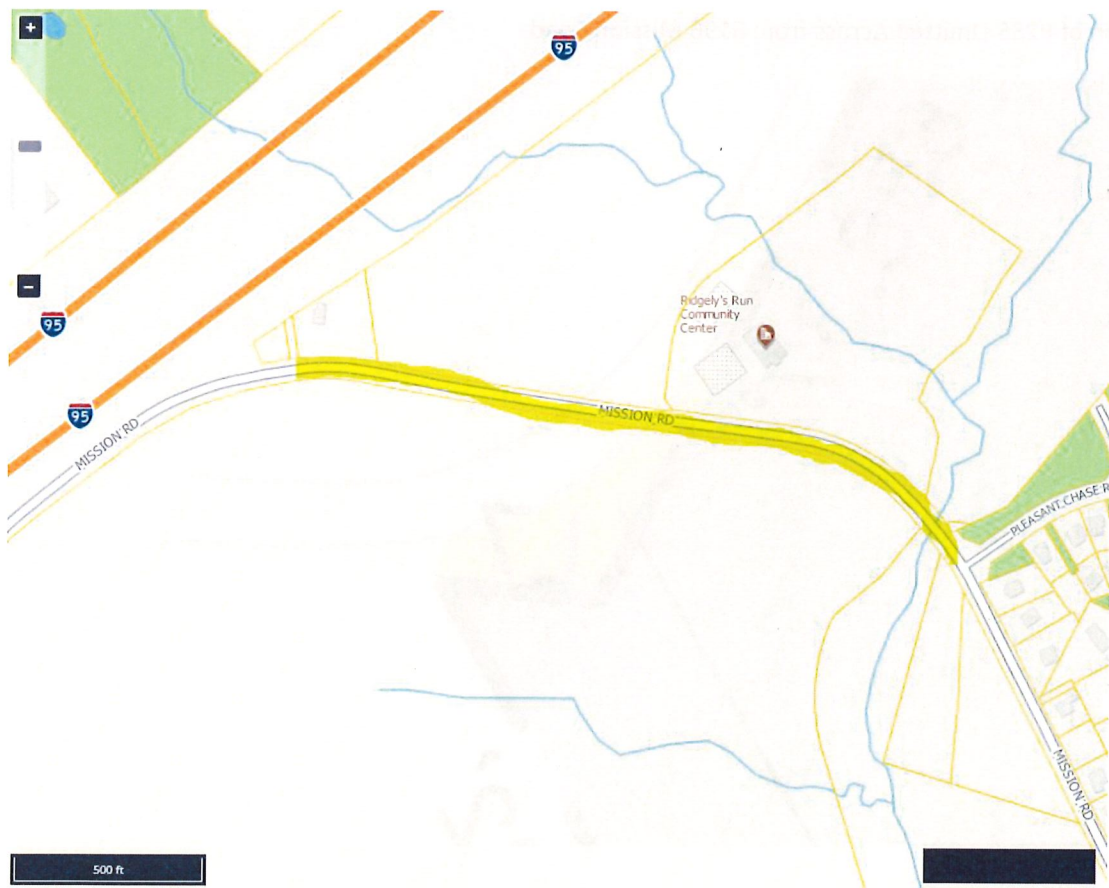
MDR Plat No. 18002: Chase Triangle Parcel Not Shown



MISSION ROAD RIGHT-OF-WAY SHOWN AS PART OF PETITIONER PROPERTY



DRRA Map: Includes Portion of Mission Road Near Ridgely's Run Community Center



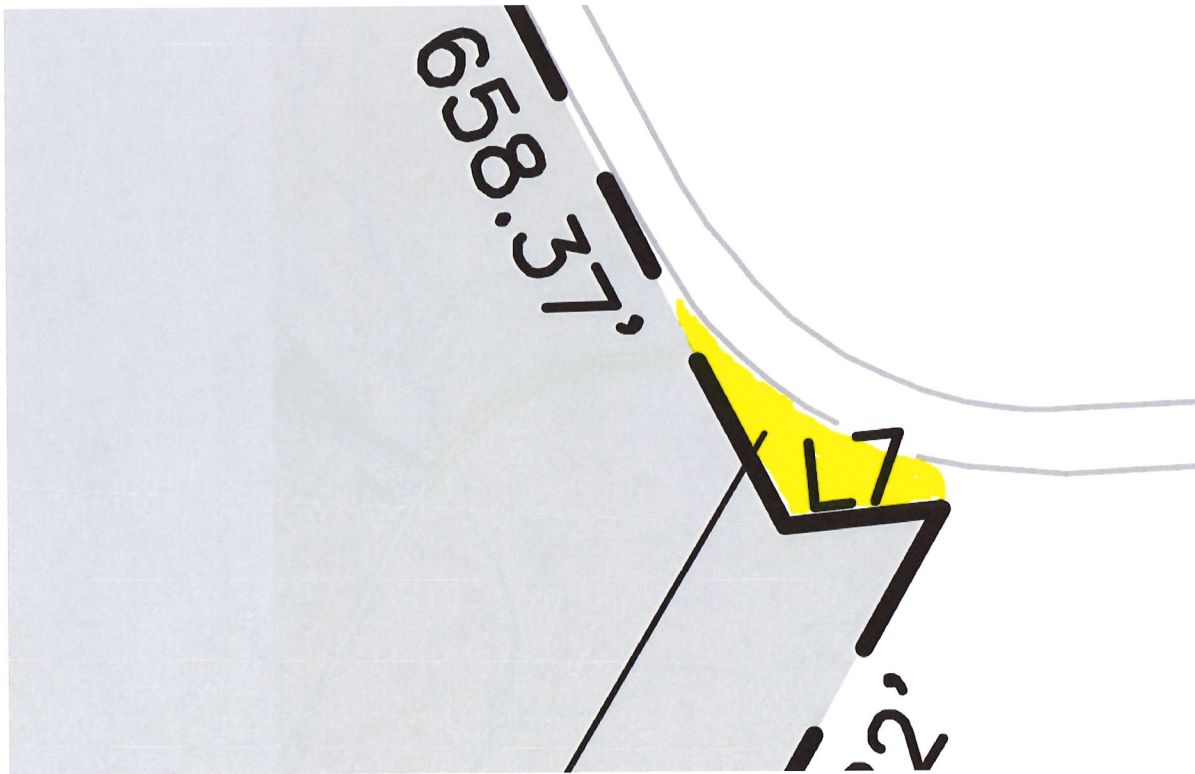
County GIS: Dedicated Mission Road Near Ridgely's Run Community Center



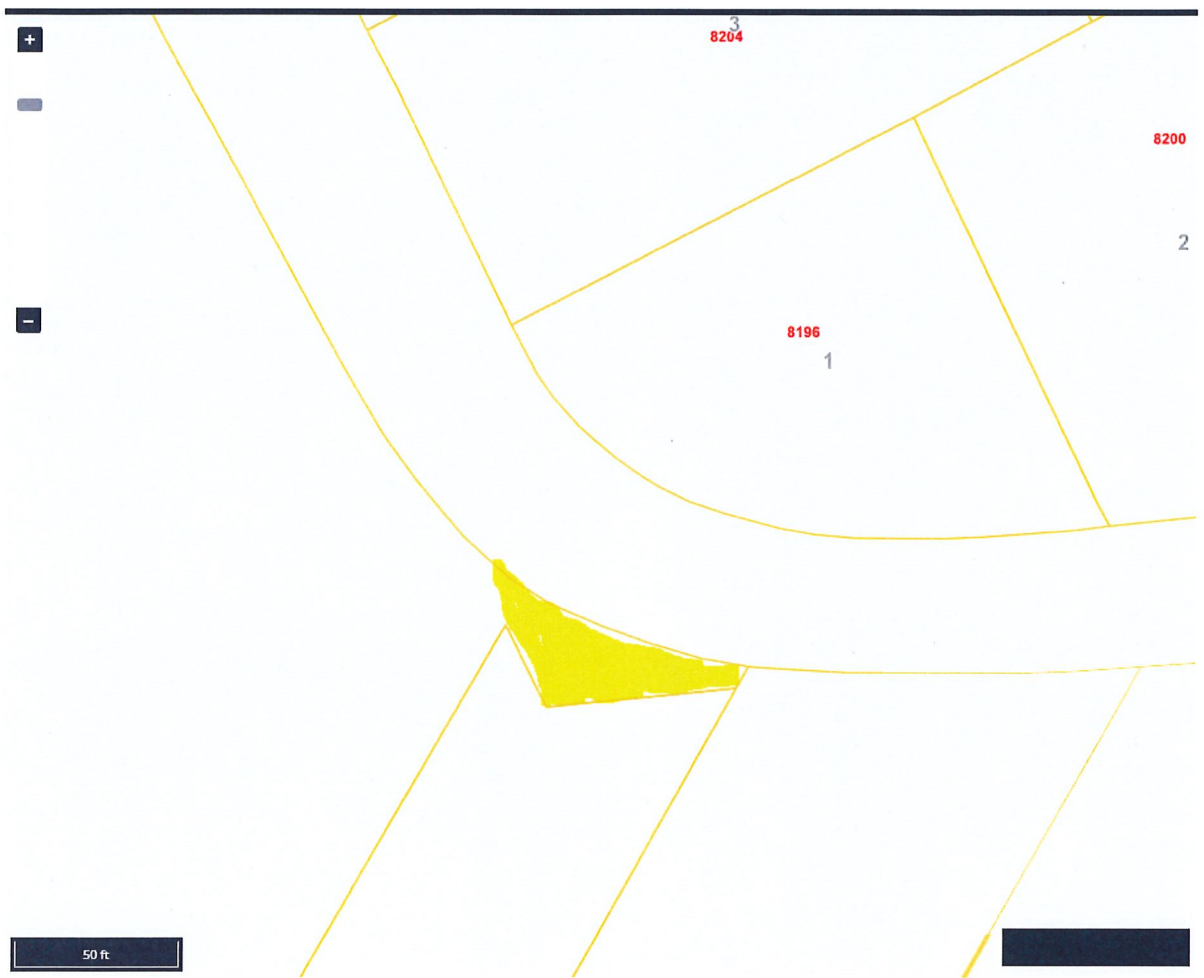
OMITTED SQUARE FOOTAGE ALONG MISSION ROAD



DRRA Map: Small Portion of P235 Omitted Across from 8196 Mission Road



DRRA Map: Blowup of Small Portion of P235 Omitted Across from 8196 Mission Road



County GIS: Shows Highlighted Area is Portion of P235 – Not Non -Chase Parcel to East as on DRRR Map.

## Sayers, Margery

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**From:** BVivrette <bvivrette@gmail.com>  
**Sent:** Wednesday, April 24, 2019 9:54 PM  
**To:** CouncilMail  
**Subject:** CR49-2019 DRRA

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council members,

I am writing to urge you not to accept the DRRA for the Mission Road quarry as amended. As pointed out, line 33 essentially negates all language amended to try to appeal to the concerns about freezing all laws pertaining to the parcel. Counsel is playing legalese games in an attempt to hide the egregious taking, and bait and switch, of a powerless BOE and a freshman Council. They wouldn't wait until the day of public testimony to file amendments if they knew what they're trying was not egregious. Please do not fall for it. Dictate the fair terms on your own, and eliminate the ambiguity and games.

Please follow through in the best interests of your constituents and students, not those of more developers.

Thank you,  
Brian Vivrette

## Sayers, Margery

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**From:** Becky McKirahan <Becky@TacoBird.com>  
**Sent:** Wednesday, April 24, 2019 1:55 PM  
**To:** BoE Email  
**Cc:** CouncilMail  
**Subject:** FW: Jessup, DRRA and HS #13

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Board of Education Members,

I wanted to follow up on Ms. Delmont-Small's testimony for CR49. Unfortunately, I fear I have become part of the constant churn of too many emails everyone receives, and I am sorry to further clog up your box.

Ms. Delmont-Small stated that the BOE did not see the DRRA until it was filed April 1st to the County Council. I would like to respectfully disagree, as Mr. Youngman did point out, it was attached to CR5 (Water Tower). Ironically, I had sent the link to it you on January 19<sup>th</sup> about the water tower and DRRA (attached down below). What I find further confusing about this timeline is the MPIA Ms. Delmont-Small filed on March 28<sup>th</sup>, 2019 for the documents referenced within the DRRA.

Much information is coming in front of everyone, at rapid speeds, and I know the clock is ticking. Yet, I feel it is imperative we keep to facts on dates and data, in order to remain creditable.

I am trusting the County's legal department, County Council and Petitioner to all work together to make the best decisions for our county, after hearing all testimony. I hope the amendments, work session, and negotiations coming up will help to relieve any further apprehensions.

Respectfully,

Becky McKirahan

Why Not Jessup

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**From:** Becky McKirahan  
**Sent:** Saturday, January 19, 2019 3:29 PM  
**To:** CalvinBall@howardcountymd.gov; EWalsh@howardcountymd.gov; OJones@howardcountymd.gov; Jung, Deb <djung@howardcountymd.gov>; DYungmann@howardcountymd.gov  
**Cc:** BoE Email <boe@hcpss.org>; Katherine DiSalvo-Thronson <kdthronson@thehorizonfoundation.org>; RidgelysRun@gmail.com; fdorsey1130@verizon.net; Willie Flowers <wflowers@phcha.org>  
**Subject:** Jessup, DRRA and HS #13

Dear Dr. Ball and County Council,

Our group has been attempting to follow the process of the Petition for Development Rights and Responsibilities Agreement between Chase Land, LLC/Annapolis Junction Holdings, LP, and Howard County since the November 13<sup>th</sup>, 2018 meeting we attended. The DRRA is the final step before the land purchase will occur for the new schools.

Our understanding is the DRRA would be submitted to the county by the end of the 2018. It would then need to be approved by the County Council and County Executive. Since January 10<sup>th</sup>, 2018, we have been attempting to get an update on this. My own CC representative stated she did not know the status and would investigate it. I also contacted the attorney for Chase Land, LLC and was told to contact my county council representative for an update.

This past Friday, January 19<sup>th</sup>, 2019, there was an addition to the Legislative Agenda for Tuesday, January 22<sup>nd</sup> for CR5-2019\*.

Upon further research, one of our volunteers discovered the DRRA attached to that resolution, as a supporting document. The DRRA was received on December 19, 2018 by the County Executive's office and copies hand delivered to all County Council Representatives.

Resolution CR5-2019 appears to be about the water tower property. Can someone please explain what the DRRA has to do with CR5-2019? Is it a separate entity, that will get its own legislation number, or is it part of CR5-2019?

As a community, we feel it is imperative to follow this process and wish it was more transparent and easier to navigate. We would appreciate assistance with navigating this progression. We are continuing to advocate for the new school opening on time, to alleviate the severe overcrowding in our schools.

Thank you,

Becky McKirahan

Why Not Jessup

\*Council Resolution 5-2019 - A RESOLUTION declaring that a total of approximately 0.649 acres of real property is no longer needed for a public purpose and authorizing the County Executive to waive the advertising and bidding requirements of Section 4.201 of the Howard County Code in order to convey the County's property interest to Chase Limited Partnership

and Annapolis Junction Holdings, LP, and providing that, if the County Executive finds that the property may have a further public use and that the property should not be conveyed, he is not bound to convey the property in accordance with this Resolution. (No expiration date)

<https://apps.howardcountymd.gov/olis/PrintSummary.aspx?LegislationID=3183>