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TESTIMONY RELATED TO HOWARD COUNTY WORKING BUDGET  
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In your *Operating Budget Work Session #3* held on Wednesday May 8, 2024, council members raised concerns about the lack of enforcement of zoning regulations by the Department of Planning and Zoning (DPZ). Comments made at the session suggested that part of the problem is due to shortcomings of inspection, for example, inability to perform inspections on off hours. Below, I'd like to share how I've seen additional stakeholders contribute to the lack of enforcement of zoning regulations in Howard County, resulting in the loss of quality of life for residents in my neighborhood.

I hope you'll agree that the problems Howard County is facing in enforcing zoning regulations is more widespread than simply the lack of inspectors. The regulations are being selectively enforced and ignored, to the benefit of special interests while eroding the quality of life in Howard County.

Thanks for your work on this important topic.

Joan Pontius  
Ellicott City

## **BACKGROUND**

These instances refer to the parcel at 4411 Manor Lane in an RC district of Ellicott City, which is part of the Agricultural Land Preservation Program (ALPP), owned by the Marriner Family Trust. The allowed accessory uses of the parcel include as a farm brewery, as agritourism, and as a home business. Currently, the parcel is the location of Manor Hill Farm, Manor Hill Brewery and Manor Hill Productions, chairman Randy Marriner.

Manor Lane is a narrow road and the excessive visitation and truck traffic to the Manor Hill parcel has changed the character of the lane, hindered the use of the road by its residents and has led to multiple complaints filed to DPZ over the past ten years. Mr. Marriner was well aware of the potential for this negative impact, and was quoted in several publications that opening to the public would be an imposition on his neighbors. Yet this all changed soon after his permit was granted.

The county's legislation specifically includes safeguards to prevent the negative impact of excessive traffic.

These include:

- SECTION 128.0: Supplementary Zoning District Regulations I. Permits for Special Farm Uses (3) That the use of the local road for access will not unduly conflict with other uses that access the local road.
- SECTION 128.0: Supplementary Zoning District Regulations I. Permits for Special Farm Uses 5. Agritourism Enterprises b. The use supports the agricultural use of the property and will not have significant adverse impacts on neighboring properties.
- SECTION 128.0: Supplementary Zoning District Regulations O. Farm Winery-Class 1A or Farm Brewery Class 1A 1. b (2) (d) That the use of the local road for access to the property will not unduly conflict with other uses that access the local road.
- SECTION 128.0: Supplementary Zoning District Regulations O. Farm Winery-Class 1A or Farm Brewery Class 1A 1. h. The use shall be compatible with the rural character of the farm and the surrounding area.

County legislation allows the DPZ to respond to the negative impact of traffic by restricting visitation.

- SECTION 128.0: Supplementary Zoning District Regulations O. Farm Winery-Class 1A or Farm Brewery Class 1A 1. k Visitor hours shall be restricted to between 10:00 a.m. and 7:00 p.m., Sunday through Thursday; and 10:00 a.m. and 10:00 p.m., Friday and Saturday. DPZ may reduce the hours for visitors. but shall not increase them.

Yet the county continues to ignore zoning regulations for the benefit of the special interest of the Marriner Family, to the detriment of the farm's neighbors.

The root cause of this excessive traffic is the lack of enforcement of multiple restrictions of use. Social Assemblies are Conditional Use, for which this parcel is not eligible, yet Marriner continues to host organized events. There is also no enforcement of the requirement that a primary product from the farm (instead of imported ingredients) is used to manufacture the beer. This has led to the farm in agricultural preservation becoming converted to a bar and manufacturing facility in a rural residential neighborhood.

The most recent complaint regarding use on the Manor Hill parcel was filed from 14 households of Manor Lane (BA 794D - Dr. Sara Via, et al <https://cc.howardcountymd.gov/calendar/ba-794-d-dr-sara-0> ). The DPZ's decision of *no zoning violation found* was appealed, and the hearing examiner's Decision and Order of May 1, 2023 was that the case must be reopened and the *DPZ must properly investigate the detailed allegations [of] the Complaint.* The DPZ responded again with *no violation found* and this decision also has been appealed (BA-806 . <https://cc.howardcountymd.gov/calendar/ba-806-d-sara> ). The first session of this appeal was held on 3/6/2024.

## **DPZ INSPECTORS**

The County Council's work session mentioned the role that inspectors play in enforcing zoning regulations. However, the history of Dr. Via's case suggests that the inspectors are being

prevented from performing their duties, or their findings are ignored. In response to my complaint filed years ago, the inspector photographed a big rig entering the farm. The use of such a truck contrasts with the DPZ's evaluation used as a basis to issue the farm brewery, where Marriner states that the truck traffic would consist of two 22 ft flatbed trucks with a lift gate. In spite of the inspector's finding, the weekly deliveries by big rigs and other trucks has escalated. Also in that case, the inspector mentions using social media (FaceBook) to research activities at the parcel. In contrast, while testifying for Dr. Via's case, the same inspector testified that no violation was found at the Manor Hill farm on a Wednesday inspection. When questioned why the inspection was done on a day when the brewery was closed to the public, rather than consulting the visitation hours posted on the MHB website, the inspector responded that social media cannot be used to investigate cases.

This gives the impression that other factors are at play in investigating and enforcing zoning regulations judiciously for all of us. A sampling of my concerns regarding stakeholders other than inspectors are provided below.

### **DPZ Permit approval**

The Farm Brewery Permit to Manor Hill Farm was approved by DPZ's Cindy Hamilton, subsequent to an evaluation for use done by Bob Lalush. Within that evaluation is a site plan with over 3,600 square feet of brewery processing equipment. However, in the RC zoning district, accessory structures are restricted to 2,200 square feet.

- SECTION 128.0: Supplementary Zoning District Regulations A. Supplementary Bulk Regulation 12. Regulations for detached accessory structures on residentially zoned lots developed with single-family detached dwellings a. Size restrictions (1) (c) 2,200 square feet for a lot in the RC or RR district which is greater than 2 acres.

So why was this restriction not enforced for the Manor Hill Parcel? In 2017, the DPZ had no problem using the size restriction to shut down the Omar farm, also on Manor Lane. Why has DPZ chosen to enforce this restriction for the Omar farm but not Manor Hill?

### **DPZ - Director Lynda Eisenberg**

In the most recent hearing for Dr. Via's appeal (BA-806), DPZ Director Lynda Eisenberg made two comments that showed complete disregard for zoning regulations and the concerns of the residents facing the negative impact of lack of enforcement of zoning.

When the legislation for a farm brewery was crafted, the risk for excessive visitation was the basis for a 50 person limit to visitation. When Dr. Via asked Ms Eisenberg about the 50 person limit at Manor Hill, Ms Eisenberg mentioned that it is problematic to enforce, since the agritourism permit allows unlimited visitation and the DPZ can't count how many people are drinking beer at one time. This point shows a highly contrived misinterpretation of zoning restrictions, since the 50 person limit refers to the total number of *visitors* and makes no mention of drinking.

- SECTION 128.0: Supplementary Zoning District Regulations O. Farm Winery-Class 1A or Farm Brewery Class 1A 1. I . At any one time, the number of visitors to the winery or brewery shall not exceed 50 visitors.

Upon additional questioning, Ms Eisenberg testified that the county's agritourism permit does not include the serving of alcohol, and she could not provide the basis for allowing Manor Hill Brewery to serve alcohol to an unlimited number of visitors.

### **Inspections, Licenses & Permits**

In 2014, the residents of Manor Lane saw an endless stream of dump trucks coming up and down Manor Lane, delivering dirt to the parcel next to Manor Hill Farm, which at the time was owned by real estate and land use lawyer, Megan Reuwer. The dirt was being piled in a huge hill on her parcel, alongside that of Randy Marriner. When concerned neighbors reached out to Randy Marriner, he answered: *She is building a berm on her/our side property line, that when finished should provide additional screening of my property from Manor Lane. It is my understanding that she has all the required County permits and has installed the necessary sediment control devices.* Mr. Marriner's email suggests that this hill's sole purpose was to provide the screening required for a Farm Brewery.

- SECTION 128.0: Supplementary Zoning District Regulations O. Farm Winery-Class 1A or Farm Brewery Class 1A 1. f Appropriate screening of adjoining parcels shall be provided, which may include a solid fence, wall, landscaping or a combination that presents an attractive and effective buffer.

The grading permit (G1400003, granted Feb 12 2014, inspected for release on April 29, 2015) was described as GRADING & SEDIMENT CONTROLS FOR HORSE FARM/STOCK PILE - LOT #4. This permit was reviewed by Bob Frances, and marked as completed by Veronica Landis. Yet there was never a horse farm on this parcel. The processing of this permit resulted in permanent loss of agricultural use of a huge section of the Reuwer preservation parcel, and a change in land topography, with no added value, except to help Mr. Marriner fulfill the requirements of accessory use of Farm Brewery.

### **Howard County Economic Development Authority (HCEDA)**

In December of 2014, Manor Hill Farm was granted \$10,000 from HCEDA's Catalyst Loan Program to be used for what was described in the Baltimore Sun as a brewery being built in a 7,200 sq ft barn. Not only was this award for a project that exceeds accessory use size limitation of 2,200 sq ft, but it disregarded conflict of interest between the Catalyst program and owner Randy Marriner and his daughter and CFO Rachel Mull.

- On Sept 15, 2014 was a public hearing for County resolution CR105-2014 to appoint Randy Marriner to the Board of Directors of the Howard County Economic Authority. This was only withdrawn on Jan 5, 2015. This means the Catalyst grant was given while the grantee was being considered for Director of the HCEDA.
- On November 12, 2014, recently elected County Executive Allan Kittleman announced his transition team with Randy Marriner's daughter and CFO of Manor Hill Farm, Rachel Mull, to evaluate the Howard County Economic Development Authority. Six weeks later,

in a photo shoot for the Baltimore Sun, the check for \$10,000 is handed to Ms. Mull's parents and sister.

- The Catalyst Loan Program is funded by Maryland's Video Lottery Terminal (VLT) fund by using the proceeds from video lottery terminals (slots) to assist small, minority, and women owned businesses. In a March email to neighbors MHB's owner Randy Marriner describes himself as: *the longest serving member of the Maryland Lottery and Gaming Control Commission, where I have served as Commissioner, Vice-Chairman and Chairman, having been appointed by the last two Governors.*

These considerations show that in their grant, the HCEDA lowered themselves to the same level of lack of ethics and integrity as the Marriner family.

### **DPZ Development Engineering Division**

**Chad Edmondson, a Division Chief of the Development Engineering Division**

**Mr. Jagarapu, Chief of the Bureau of Highways at Howard County's Department of Public Works.**

In Dr. Via's appeal BA 794D, the hearing examiner ordered the DPZ to properly investigate the requirement for "*safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and structures throughout the County.*"

A traffic study was done over the course of one week and confirmed the excessive traffic, counting 358 Peak Hour Trips (PHT), *meaning 6 trips each minute* to the end of Manor Lane, and an Average Daily Trips (ADT) of 681.

In a letter to Sara Via, Zoning Supervisor JJ Hartner refers to analysis of the study done by Chad Edmondson. Mr. Edmondson referred to Design Manual Appendix A(2-109) to suggest that Manor Lane resembled a Residential Access Street with 12' lanes and an ADT of 500 trips. However, as its name suggests, Manor Lane (not Lanes) has one but not two 12" lanes. The width of Manor Lane varies from 17-21". Clearly the traffic on Manor Lane should fall well below that of a two lane road.

In the appeal hearing, Mr Jagarapu elaborately testified that the road could carry even more traffic than the current levels. However, he then finally clarified that his analysis referred to the structural integrity of the road, and not the safety or use of Lane by its residents, or the damage of the sides of the Lane when vehicles drove off the road to pass one another. This suggests that not only the DPZ, but also the county's traffic engineers are willing to misrepresent traffic studies and disregard safety standards for the sole benefit of the Marriner family.

### **Howard County Office of Law - Steven Yeager, Assistant County Solicitor,**

In the appeal of Dr. Via's case (BA 794D) Steven Yeager, Assistant County Solicitor, explained that the DPZ did not issue a violation because of the potential for the violation to be contested when it reaches circuit court. In her conclusion, the hearing examiner pointed out that the county's subsequent actions regarding a violation could not be used in determining whether a

violation exists. Yet in the second appeal, Mr. Yeager again used this justification for not issuing a zoning violation.

This comment shows disregard for the conclusion of the Hearing Examiner. Furthermore, in the case of BA 794D, as mentioned previously, the DPZ could put an end to the negative impact, without issuing a violation, by restricting visitation to the farm. The refusal to make use of this solution gives the impression that the Office of Law is actively allowing the Marriner's unrestricted use of the parcel, to the detriment of neighboring residents.

### **Agricultural Land Preservation Program**

The Manor Hill Farm is on a parcel in the Agricultural Land Preservation Program and does not have the required approval for social assemblies. Yet Manor Hill advertises weddings and other social gatherings online. These gatherings have included political fundraisers, attended by **elected officials at the county, state, and federal level**. Why has Joy Levy, Administrator ALPP not stepped in to enforce the restriction? Why do our own elected officials not adhere to the zoning regulations of the areas they represent?