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LAW GROUP LLC

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March 4, 2021

County Commissioners for Kent County
c/o William A. Mackey, AICP
Director of Planning, Housing and Zoning
400 High Street
Chestertown, MD 21620

Re: Proposed Text Amendments

Dear Commissioners:

As you know, Kent County is undergoing a comprehensive rezoning and our clients are participating in the County rezoning process. Our clients cumulatively own approximately 596 acres, more or less, at the Route 291/U.S. 301 corridor. The significance of this rezoning as it pertains to our clients' land and the economic development potential for the County is immense. The County has a unique opportunity to support exponential smart, innovative growth and well-planned development highly beneficial to the County and its citizens by virtue of enacting changes to the zoning code affecting these properties. Our clients previously proposed amendments be made to the County Zoning Text, including new "floating" zones which would permit mixed-use development in designated growth areas and otherwise. Based on the comments at the prior comprehensive rezoning task force meetings, and the preliminary plans of the County's zoning consultant, Calfee Zoning, our clients endeavored to research other similar rural jurisdictions that have successfully used mixed-use development floating zones and expanded underlying base zoning to appropriately permit mixed-use development in predominantly agricultural communities. Enclosed, please find a memorandum of LRK Architects, Designers and Planners, on behalf of our clients, which highlights and discusses pertinent examples of how mixed-use development has been accomplished in rural, scenic areas such as Kent County. These examples are a great indication that our community can achieve smart, sustainable and innovative growth while also preserving our rural character, which is the staple of our County.

Based on the research memorandum enclosed, the comments at previous task force meetings and purported strategy of the County zoning consultant to combine zoning districts, deal heavily with underlying base zoning districts and simplify the zoning code, our clients hereby amend their Text Amendment proposal of September 30, 2020 with particular emphasis on allowing for mixed-use development in certain areas and zoning districts, such as Millington Crossing. The crux of our client's request is to permit mixed-use development either through

amendments to the underlying base zoning in certain growth areas, by virtue of enacting planned mixed-use floating zones, or a combination of both. The primary focus of the proposal is allowing for mixed-use development. As such, please note the following are our clients' revised and restated requested zoning text amendment proposals:

- (a) The County incorporate and include a new Planned Mixed-Use Development (PMD) Floating Zone District in the form and substance previously submitted by our letter on September 30, 2020 and incorporated herein by reference;
- (b) The County incorporate and include a new Planned Neighborhood (PN) Floating Zone District in the form and substance previously submitted by our letter on September 30, 2020 and incorporated herein by reference;
- (c) The County incorporate and include the Procedure for Planned Development Approval for the PMD and PN Floating Zones in the form and substance previously submitted by our letter on September 30, 2020 and incorporated herein by reference;
- (d) In light of the fact that the proposed Floating Zones are subject to further review and consideration, we also recommend and request that the County amend the underlying base zoning to allow mixed use development and modify the existing Commercial District and Employment Center District zoning as follows:
 - a. Combine the Commercial District and Employment Center District into one single underlying Mixed-Use Zone and expand the range of permitted uses in the district including residential and non-residential uses;
 - b. Merge the Permitted Principal Uses of both the Commercial District and the Employment Center District to be Permitted Principal Uses in a new underlying Mixed-Use Zone;
 - c. Merge the Special Exceptions and Accessory Uses for both the Commercial District and Employment Center District and convert the Special Exception Uses in both districts to Permitted Principal Uses in a new underlying Mixed-Use Zone;
 - d. Allow residential uses as a Permitted Principal Use or Special Exception in the new combined Commercial District and Employment Center District known as a Mixed-Use Zone, including single-family homes, townhomes, duplexes, cottage units, tiny homes, multi-plexes, multifamily apartments, senior living, nursing homes, assisted living facilities, sheltered care facilities and continuing care retirement communities;

- e. Use a combination of Mixed-Use Floating Zones and a new underlying Mixed-Use base Zone to permit Mixed-Use and give broad permitted use categories instead of a laundry list of specific permitted uses in a new Mixed-Use base Zone; and
- f. Rezone the underlying base zoning for the vast majority of the Millington Crossing development consisting of 712 acres, more or less, to be in an underlying base zoning of Mixed-Use as shown and designated an Exhibit in the enclosed Memorandum.

The intent of these proposed text amendments is to use changes to the underlying base zoning districts and new floating zones to allow for mixed-use development in growth areas in a successful and innovative way as with the examples contained in the attached Memorandum. Please allow this letter to serve as a formal revision and amendment to the previously submitted Requested Proposals which shall supersede our clients' prior submittal.

We appreciate your anticipated consideration of this proposal. Should you need additional information or have any questions, please do not hesitate to contact us. Thank you for your anticipated consideration of this matter.

Very truly yours,


Kyle K. Kirby



Architects | Designers | Planners

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March 4, 2021

**TO: County Commissioners for Kent County
Comprehensive Rezoning Update Task Force**

**FROM: Jim Constantine, PP – Principal
LRK Inc.**

**RE: Zoning at Millington Interchange and Research on PUD Floating Zones and Mixed-Use
Base Zoning**

1.0 Background

A group of property owners (“Millington Crossing Landowner Group”) controlling approximately 450 acres surrounding the intersection of Routes 301 and 291 in Millington is acting collectively to provide public input to the County’s Comprehensive Rezoning and Land Use Ordinance Update process. As you are aware, the Millington Crossing Landowner Group previously submitted a proposal for two “floating zones” to the committee for consideration in September 2020. In response to public discussion at the Comprehensive Rezoning Update Task Force (“CRU Task Force”) meeting on January 14, 2021, the Millington Crossing Landowner Group asked LRK (the Millington Crossing planning consultant) to research potential case study examples of PUD “floating zones” from comparable community contexts that might assist as reference material for the CRU Task Force.

The Millington Crossing landowner group has also asked LRK to review the planning and zoning implications of the **Proposed Table of Contents for the Land Use Ordinance** which was presented by Calfee Zoning, the County’s zoning consultant, at the February 9, 2021 Task Force meeting. LRK has preliminarily analyzed the potential implications that this outline of new and reorganized zoning districts would have on the base zoning of the lands surrounding the intersection of Route 301 and Route 291 in Millington. The base zoning is of particular importance regardless of whether the County implements the “floating zones” that our group previously proposed.

2.0 The Existing “Split Zoning” and Consistency with the County Comprehensive Plan

- At present, the properties owned by the Millington Crossing Landowners Group are “split” into several zoning districts as illustrated on the attached Zoning Map. Under the existing zoning, the properties are located within five different zoning districts with majority of acreage located in either the Employment Center or Commercial districts



with additional areas located in the Rural Residential, Resource Conservation and Agricultural districts. This existing zoning is “split” on opposite sides of Route 301 resulting in different zoning districts facing one another on each side of the highway corridor and Interchange with Route 291. The Employment Center district exists on the west side of the Interchange and the Commercial district on the east side (refer to attached map entitled, “*Kent County Existing Zoning*”).

This existing “split zoning” is further complicated on the east side of Route 301 where the Employment Center district is located behind the Commercial highway frontage near the interchange. However, the frontage along the east side of Route 301 switches from Commercial to Employment Center north of Millington Road. The boundaries of the zoning districts in the vicinity of the interchange have “jagged” boundary lines resulting in inconsistent depths of zoning districts fronting along Route 301, in addition to the “split zoning” on each side of the Interchange. In short, the existing zoning district designations and boundaries are illogical in relation to the interchange and resulting in development constraints at a location identified as a key growth area in the 2018 Kent County Comprehensive Plan.

The County’s Comprehensive Rezoning and Land Use Ordinance Update is an opportunity to address existing zoning that is inconsistent with the 2018 Kent County Comprehensive Plan. At the Millington Crossing location, the Comprehensive Plan states the following policy for the Economy (Page 12):

Strategy: Expand regulatory flexibility for the creation of and the location of employment centers and industrial uses.

Through its economic development planning and land use implementation measures, the County will support flexibility in and an expanded area of employment center and industrial zoning in general to support commercial and mixed-use development.

These efforts will especially focus on the Worton area, and the US 301 corridor with a priority that the area between the Town of Millington and the lands surrounding the Route 291-Route 301 intersection be guided by the desired expansion of services and land use identified by Millington’s municipal growth element.

3.0 Proposed Zoning in Relation to the Comprehensive Plan

After reviewing the **Proposed Table of Contents for the Land Use Ordinance**, LRK has attempted to interpret how zoning at the Millington Crossing Interchange might be affected. From the outline, it is not clear if the intent is to leave the existing zoning boundaries as presently drawn and simply redesignate the existing Employment Center zones as Industry (I) and redesignate the existing Commercial zone as Commerce (C). If so, this would perpetuate the constraints imposed by the existing “split zoning” and the other constraints created by “jagged” zoning



district boundary lines and depths from Route 301. From a planning perspective, this would appear to be inconsistent with the vision and strategies of the 2018 Kent County Comp Plan.

Calfee Zoning, the County's zoning consultant, has reinforced the importance that zoning regulations should follow the vision of the County Comp Plan. The May 2020 *Kent County Land Use Ordinance Diagnostic Report* included analysis, conclusions and recommendations guided by principles that include:

- **Zoning Should Respect Existing and Reflect Desired Development Patterns.** Zoning should be a tool to implement the community's vision set forth in the plan...Zoning districts should be focused less on simple use segregation, which can lead to disjointed development patterns, and more on the finer details of the desired character and amenities of the unique geographies of the County.
- **Zoning Should Be the Implementation of the Plan Rather Than a Barrier to Achieving the Vision.** Zoning regulations that make it more difficult, or even impossible, to achieve the planning vision should be reconsidered.

4.0 Potential Zoning Actions for Consistency with the County Comp Plan

Based on the consultant's principles and using the 2018 Kent County Comprehensive Plan as the vision that should be implemented in the zoning, we respectfully offer several recommendations for the lands flanking both sides of the Route 301 in the vicinity of the Route 291 interchange, that include the following:

- At a location prioritized for growth in the Comprehensive Plan, rectify the development constraints caused by the existing "split zoning" designations and "jagged" zoning district boundaries, by consolidating both sides of the highway into one underlying zoning district with sufficient depth from Route 301 on both the east and west sides.
- Implement the Comprehensive Plan recommendation for mixed-use development at this location by redesignating the underlying zoning for this entire area as a Mixed-Use District base zone that allows a range of industrial, commercial and residential uses in the base zoning (refer to attached map entitled, "*Proposed Mixed-Use District Base Zoning*").
- "Expand regulatory flexibility" as recommended in the Comprehensive Plan by incorporating the two "floating zones", previously proposed by the Millington Crossing landowners, as options in the new Mixed-Use District.

5.0 Case Studies of Mixed-Use Base Zoning and Floating PUDs

The Millington Crossing Landowner Group asked LRK to research potential case study examples of PUD "floating zones" and mixed-use base zoning with a focus on comparable rural contexts undergoing development that might assist as reference material for the CRU Task Force. This research was undertaken in response to public discussion at the CRU Task Force meeting on January 14, 2021, and after reviewing the **Proposed Table of Contents for the Land Use Ordinance** presented at the CRU Task Force meeting February 9, 2021.



St. Mary's County, MD

This is an example of County policies promoting planned Mixed-Use Growth Areas and County ordinances implementing several types of Mixed-Use Base Zoning and PUD Floating Zones in various Mixed-Use Development Districts.

- **Planning purposes are clearly stated for Commercial and Mixed-Use Districts:**
 - Provide and protect land within growth areas for commercial and mixed-use development consistent with the Comprehensive Plan.
 - Accommodate a central core with mixed uses surrounded by larger intermixed blocks of residential, commercial, industrial, and business uses in growth areas.

- **A wide range of mixed uses are permitted within various Mixed-Use Districts, such as:**
 - Agricultural uses including agriculture, farmers market, roadside stands, distillery, winery, ag tourism.
 - Industrial Uses including limited production.
 - Commercial uses including retail, restaurants, services, banks, offices, lodging, conference, indoor recreation, laboratories and research.
 - Residential uses including accessory apartments, attached, detached, and multifamily dwellings.
 - Public and semi-public uses including government, education, recreation, cultural institutions, hospitals and health care, religious assembly, clubs and lodges.

- **Specific provisions for Mixed-Use Districts, such as:**
 - *Building Form* is a key factor to ensure compatibility in mixed-use neighborhoods.
 - *Street Presence* is particularly important in development districts to integrate built form and the pedestrian environment to provide a vibrant, safe public space.
 - *Connectivity* in pedestrian-oriented growth areas is an important design consideration within development districts.

- **Planning purposes are clearly stated for Floating Zones and PUD Floating Zone:**
 - Provide for relief from the strict application of land use standards, development regulations and performance standards found in the base zoning district.
 - Decrease the burden created by new development of utilities and other infrastructure systems by permitting mixed use development consistent with Smart Growth directives.
 - Provide a mechanism for increasing development in growth areas, where the Comprehensive Plan directs additional development be accommodated.

The zoning code for St. Mary's County can be found here: [COMPREHENSIVE ZONING ORDINANCE \(stmarysmd.com\)](https://www.stmarysmd.com/DocumentCenter/View/1000/COMPREHENSIVE_ZONING_ORDINANCE_(stmarysmd.com)). The Comp Plan for St. Mary's County can be found here: [Microsoft Word - Chapter 1.doc \(stmarysmd.com\)](https://www.stmarysmd.com/DocumentCenter/View/1000/Microsoft_Word_-_Chapter_1.doc_(stmarysmd.com))



Gloucester, VA

This is an example of a Mixed-Use PUD Floating Zone and proposed Village Mixed-Use Base Zoning.

- The purpose and intent for mixed-use PUD Districts includes:
 - Allow and encourage more unique, flexible, creative and imaginative arrangements and mixes of land uses in site planning and development than are permitted through conventional land use requirements.
 - Provide more desirable or alternative living environments than would be possible through the strict application of conventional requirements promote pedestrian and non-vehicular interconnectivity, mixed-use, transportation planning, storm water management and sustainable planning principles.
 - Allow and encourage the development of tracts of land as single developments that are planned neighborhoods or communities, including civic and semipublic uses (e.g., schools, playgrounds, meetings halls, etc.) that contribute to the livability of a community.
 - Provide higher gross and net development densities and intensities within and adjacent to village areas identified in the comprehensive plan as an inducement to develop in a manner consistent with “traditional neighborhood design” features.
 - Preserve the natural amenities of the land through maintenance of conservation areas and open spaces.

- The permitted uses of the PUD District are very broad and allow for a wide range of uses as follows:
 - Commercial uses including business, office, retail, restaurant and lodging.
 - Light industrial uses.
 - Lodging including hotels, motels, short-term and long-term rentals.
 - Residential uses including single-family attached/detached, multifamily, townhomes, and mixed density.
 - Cultural, civic, and institutional uses including schools, museums, libraries, and churches.
 - Recreational uses including parks, places of commercial amusement, and outdoor passive uses.
 - Temporary and permanent agricultural and agritourism uses.

The Planned Unit Development District Zoning for Gloucester County can be found in its entirety here: [Municode Library](#). The proposed Village Mixed-Use Zoning District can be found here: [Microsoft Word - Article 5 - Mixed Use District Draft Regulations \(gloucesterva.info\)](#)



Lancaster County, PA

This is an example of County planning strategies to facilitate Mixed-Use Development in designated Growth Areas including at highway corridor interchanges:

- The County's Comprehensive Plan designates two types of areas in the county:
 - *Growth Areas* to focus development where services exist or are planned.
 - *Rural Areas* to sustain resources, character, and a rural way-of-life, and to preclude incompatible development.

- In *Growth Areas*, key objectives include:
 - Increase the density and intensity of development in *Growth Areas*.
 - Guide majority of the County's new residential and employment to Growth Areas.
 - Improve the character and form of new development in Mixed-Use Centers that combine housing, retail, commercial and employment uses.
 - Defining Mixed-Use Centers as a concentrated area of development with a designated primary use while permitting a range of other complementary uses.

- The Comprehensive Plan update promotes mixed-use development with these strategies:
 - Continue directing growth into designated areas to preserve farmland, open space, and natural resources.
 - Better integrate mixed-use development into existing communities.
 - Create more compact, walkable mixed-use communities including housing.
 - Attract higher-wage jobs that enable more residents to afford quality housing and provide housing options that meet the needs of the workforce.
 - Develop more consistent planning and regulations including streamlining zoning and permitting and providing more flexibility in building codes.

- The County's actions to implement mixed-use include the 2018 *SR 283/230 Corridor Study* which recommends the following for interchanges in this highway corridor:
 - Strategic zoning to encourage economic growth and create economically viable scenarios for the expansion of water and sewer access/capacity to parcels zoned for mixed-use in *Growth Areas* adjacent to existing interchanges.
 - Zone for mixed-use and co-locate high-density residential near commercial or light industrial uses to minimize automobile trips for both employees and customers to and from commercial/industrial sites.

Additional information on Lancaster County's Comprehensive plan and corridor study:

- County Plan <https://lancastercountyplanning.org/27/County-Plan>
- Places2040 <https://lancastercountyplanning.org/DocumentCenter/View/1057/HI-Res-for-Printing>
- Corridor Study <https://lancastercountyplanning.org/DocumentCenter/View/1046/SR-283230-Corridor-Study>



Chester County, PA

This is an example of County planning strategies to facilitate Mixed-Use In Rural Centers.

- The County's Comprehensive Plan provides an example of County planning for mixed-use Rural Centers which are defined as areas that often build from a village at a historic crossroads and expand over time to contain a mix of housing, commercial, and institutional uses that serve the surrounding rural and agricultural areas.
- In Rural Centers, comprehensive planning, infrastructure investment, regulatory updates, community revitalization, and creation of green space should take into consideration the following principles:
 - Understand that there may be limited future growth, and plan for it.
 - Future growth maintains economic viability and provides additional affordable housing opportunities.
 - Land uses should provide a variety of housing types and commercial buildings while allowing a mix of uses within a single property.
 - Institutional focal points, such as schools, municipal buildings, and places of worship.
- The design of Rural Centers should complement the existing historic character and provide additional services to local residents:
 - Development should be compact and continue the traditional village form with a mix of uses.
 - The character of buildings should take into account the historic nature of the existing town or crossroads and complement the existing form and character.

Additional information about Rural Centers can be found on pages 40-42, along with the other designations assigned by Chester County: [Landscapes3.pdf \(chescoplanning.org\)](#)

Rural by Design is a book by Randall Arendt with principles and case study examples covering a wide range of rural planning conditions including highway corridors. The following were principles originally written within a Urban Land Institute (ULI) technical report that the author then modified to relate to the fundamental issues present along many highway frontages across rural and suburban America. These principles include:

- Establish "Pulse Nodes" for Development containing a rich mixture of inviting uses should be zoned for and actively encouraged.
- Prune Back Retail-Zoned Land by rezoning for other uses and up-zoning other land to facilitate denser mixed-use nodes.
- Create the Place because it is the presence of other people and the ability to interact with and to watch them in a safe and energized environment that creates the most memorable and successful places. Such well-designed and pleasant environments have



been proven to pay a "design dividend" in terms of increased visitation, longer shopping trips, and greater expenditures.

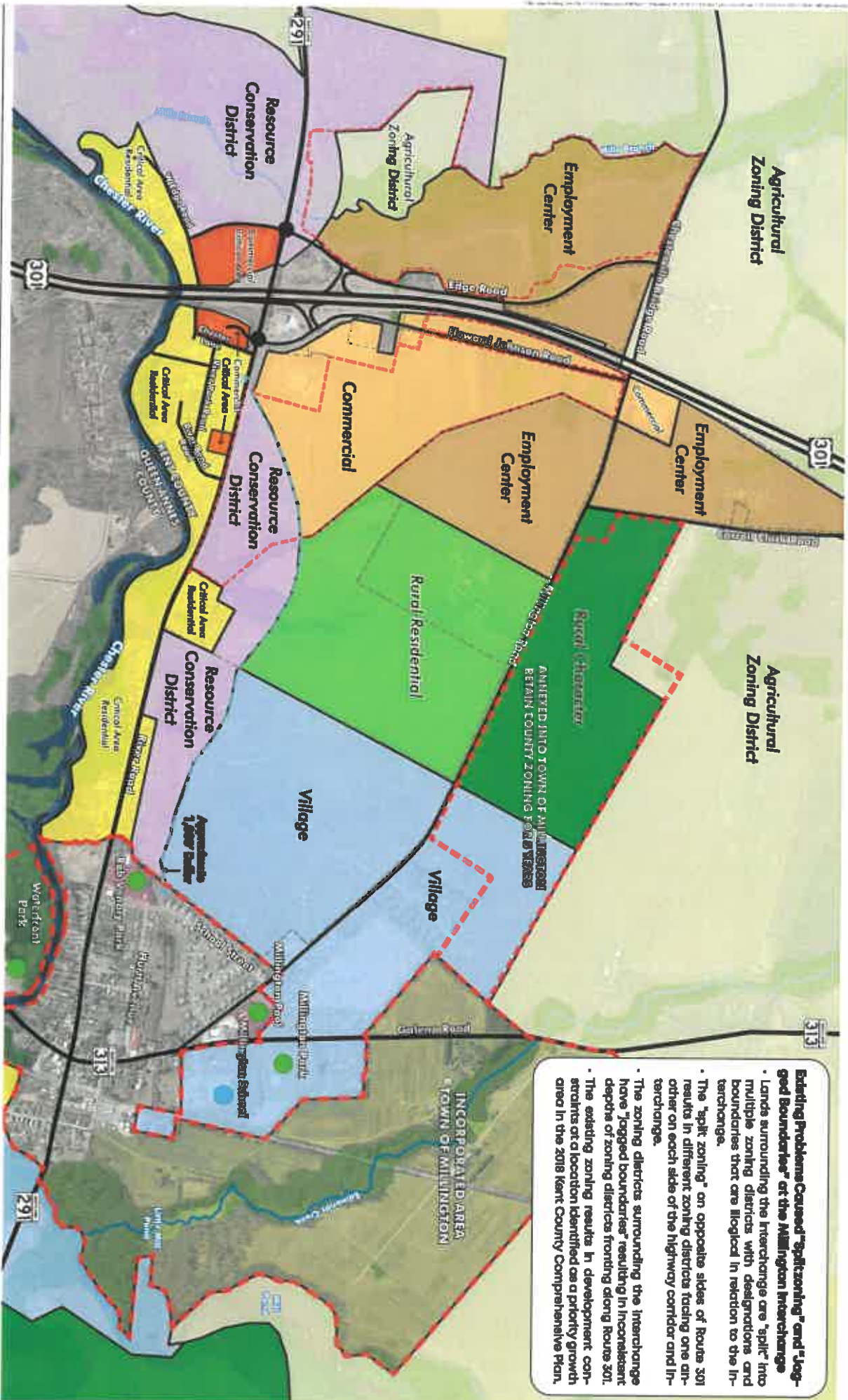
The excerpt above from the book, *Rural by Design*, was based on the following ULI Report by Beyard and Pawlukiewicz Titled, *Ten Principles for Reinventing America's Suburban Strips*:

http://teachamerica.com/accessmanagement.info/pdf/ULI_Ten_Principles.pdf

6.0 Conclusion

Using the County Comp Plan as the vision to be implemented with zoning, the lands flanking both sides of the Route 301 in the vicinity of the Route 291 interchange should be considered for the following:

- At a location prioritized for growth in the Comprehensive Plan, rectify the development constraints caused by the existing "split zoning" designations and "jagged" zoning district boundaries, by consolidating both sides of the highway into one underlying zoning district with sufficient depth from Route 301 on both the east and west sides.
- Implement the Comprehensive Plan recommendation for mixed-use development at this location by redesignating the underlying zoning for this entire area as a Mixed-Use District that allows a range of industrial, commercial and residential uses in the base zoning.
- "Expand regulatory flexibility" as recommended in the Comprehensive Plan by incorporating the two "floating zones", previously proposed by the Millington Crossing landowners, as options in the new Mixed-Use District.
- The Case Studies of Mixed-Use Base Zoning and Floating PUDs provide several examples of how other counties and communities are utilizing planning principles, policies and zoning techniques to guide growth in comparable rural contexts undergoing development. While it is difficult to find an exact analogous example for comparison, there appear to be some lessons and knowledge that can be applied regarding the use of PUD "floating zones" and mixed-use base zoning from these examples.



Existing Problems Caused "split zoning" and "Jagged Boundaries" at the Millington Interchange

- Lands surrounding the interchange are "split" into multiple zoning districts with designations and boundaries that are illogical in relation to the interchange.
- The "split zoning" on opposite sides of Route 301 results in different zoning districts facing one another on each side of the highway corridor and interchange.
- The zoning districts surrounding the interchange have "jagged boundaries" resulting in inconsistent depths of zoning districts fronting along Route 301.
- The existing zoning results in development constraints at a location identified as a priority growth area in the 2018 Kent County Comprehensive Plan.

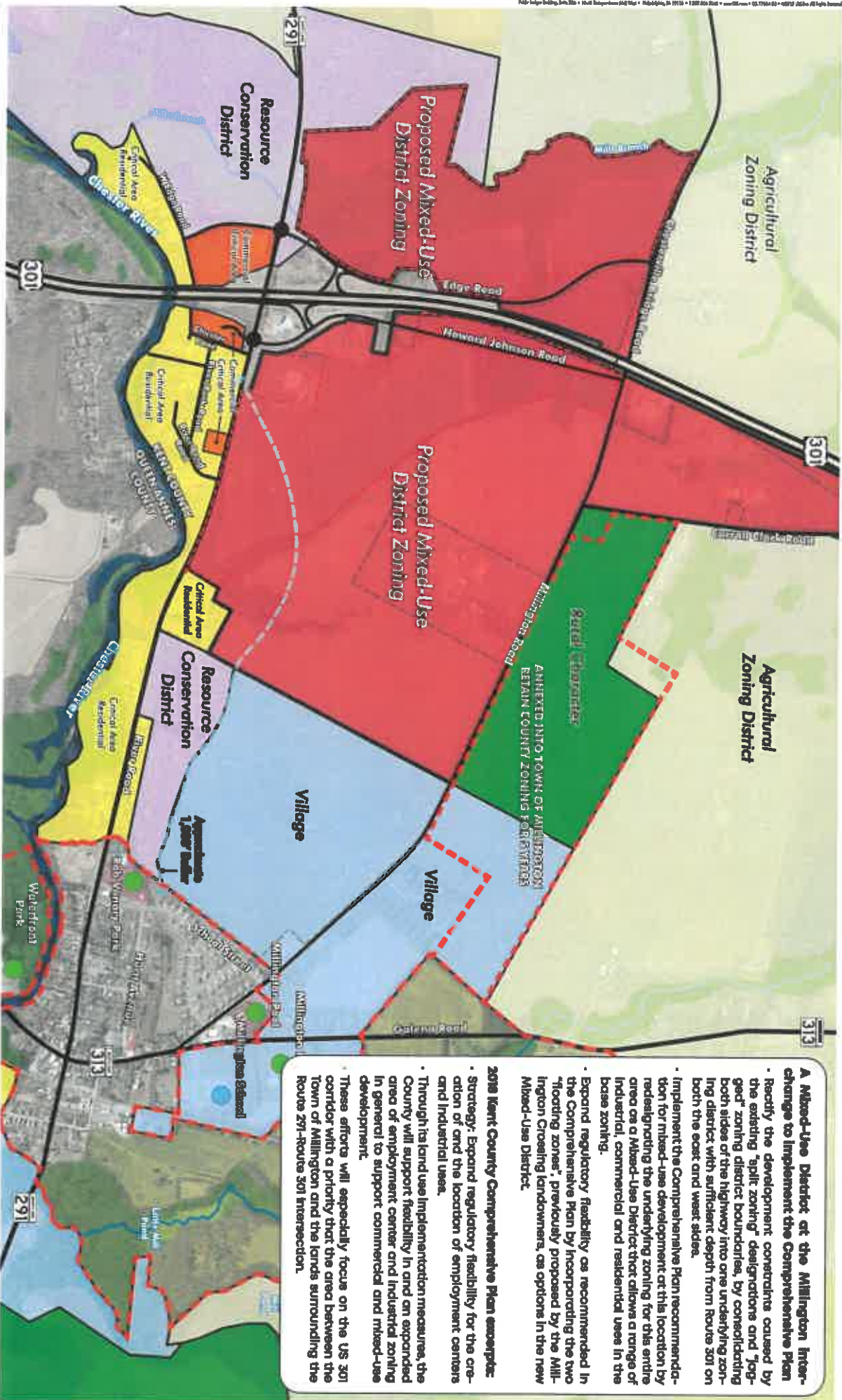


KENT COUNTY EXISTING ZONING

Project Location: Millington, Kent County, Maryland
 May 2, 2017; Last Revised March 4, 2021



Richardson
 Properties
 Corporation



A Mixed-Use District at the Millington Interchange to Implement the Comprehensive Plan

- Ready the development constraints caused by the existing "spilt zoning" designations and "jogged" zoning district boundaries, by consolidating both sides of the highway into one underlying zoning district with sufficient depth from Route 301 on both the east and west sides.
- Implement the Comprehensive Plan recommendation for mixed-use development at this location by redesigning the underlying zoning for this entire area as a Mixed-Use District that allows a range of industrial, commercial and residential uses in the base zoning.
- Expand regulatory flexibility as recommended in the Comprehensive Plan by incorporating the two "floating zones", previously proposed by the Millington Crossing landowners, as options in the new Mixed-Use District.

2016 Kent County Comprehensive Plan excerpts:

- Strategy: Expand regulatory flexibility for the creation of and the location of employment centers and industrial uses.
- Through its land use implementation measures, the County will support feasibility in and an expanded area of employment center and industrial zoning in general to support commercial and mixed-use development.
- These efforts will especially focus on the US 301 corridor with a priority that the area between the Town of Millington and the lands surrounding the Route 291-Route 301 intersection.



PROPOSED MIXED-USE DISTRICT BASE ZONING

Project Location: Millington, Kent County, Maryland
 May 3, 2017; last Revised March 4, 2021



Richardson Properties Corporation