



April 21, 2025

Shannon Bohrer, Chair
Frederick County Board of Appeals
30 N. Market Street
Frederick MD 21701

RE: Appeal B277447
Site Development Plan SP 19-17 (AP SP277005 APFO277003 ("Site Plan"))
Compost Crew at Utica Bridge Farms

Dear Chair Bohrer and Members of the Board:

On behalf of my clients John and Amie St. Angelo who own and farm 7114A Lakeview Drive,¹ located directly across Stull Road from the Site Plan property and the adjoining farm at 10900 Hessong Bridge Road,² Zachary Matter and Victoria St. Angelo who live at 7114 Lakeview Drive, Luke and Valerie Myers, who own 10700 Stull Road (and did not move in until October, 2023), Nicholas & Shannon St. Angelo who own and live at 10690 Stull Road, and Christopher and Ashley St. Angelo who own and live at 10670 Stull Road ((and who had multiple failed well tests in 2023) please accept this letter into the record of the above-referenced case in support of our request that the Board hold a full *de novo* hearing in this case, for the reasons stated herein.

In short, my clients (at the recommendation of Planning Commission members during and after the Site Plan hearing) contacted MDE and learned that – contrary to representations made by the Applicant during the Site Plan hearing – they have been operating the site "in violation of Environmental Article Titles 9," by failing to obtain the requisite "20-SW Industrial Stormwater Permit coverage." Attachments 1 and 2.

As explained below, when questioned by the Planning Commissioners about their permit status and MDE's oversight, the Applicant's testimony led the Commissioners to believe that they were in compliance with MDE permits, and as a direct result the Commissioners approved in a 3-2 vote to approve the Site Plan.

All Appellants were directly and materially prejudiced by the lack of fundamental fairness in the proceedings, and the sole means by which the underlying lack of due process can be cured is with a full *de novo* appeal hearing before the Board of Appeals.

¹ The St. Angelo property is owned by Lakeview LLC and Mr. and Mrs. St. Angelo are the sole members of that LLC.

² Both farms have large aquaculture ponds (one 5 acres and the other 7-plus acres).

I. Procedural Background

In 2022 the Planning Commission approved a Site Plan for a compost facility located at 7245 Lakeview Road.³ That Site Plan, filed by applicant Utica Bridge Farms, LLC ("Applicant") with "Key City Compost" as the operator ("First Operator"), expired January 12, 2025. A second Site Plan application, also filed by Utica Bridge Farms, LLC, requested Site Plan approval, this time with Compost Crew, Inc. as the operator ("Second Operator").

My clients testified at length regarding significant and ongoing concerns related to odors, water contamination (one having nine failed well tests in the two years prior to the 2025 Site Plan hearing and air quality concerns resulting from repeated childcare visits to pediatricians, including two children diagnosed with reactive airway disorder, with particulates associated with the compost facility as a suspected cause.

The Planning Commission, in a 3-2 vote, approved the Site Plan, after a majority declined to postpone a decision for several weeks to allow more investigation into the well water and air quality issues raised.

In this case, the Board has the authority to "reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken." Zoning Code § 1-19-3.230(D). Nothing in the Zoning Code or Board's Rules dictate whether an appeal must be "on the record" or *de novo*. For the reasons explained herein, a *de novo* hearing is clearly called for.⁴

II. Argument

A. The Board of Appeals Must Hold A De Novo Hearing Because The Compost Facility Is In Violation Of Its General Permit Contrary To Applicant Representations Before The Planning Commission.

There was extensive discussion at the Planning Commission level regarding concerns about groundwater and air quality regulations, and where enforcement authority falls. In response to direct questions Applicant representative Jeffries testified that:

MDE would do all, all of our permits would come through MD on any type of environmental concerns. So an example would be, we have a solid waste permit that we've already approved for the composting operations, which includes, we will need an industrial stormwater permit, which

³ For some inexplicable reason, the address on the Site Plan does not match the one on the General Permit, *i.e.*, 10661 Stull Road. See Attachments 5 and 6.

⁴ The Board may hear from its legal counsel that *People's Counsel for Baltimore County v. Country Ridge Shopping Center, Inc.*, 799 A.2d 425, 426, 144 Md. App. 580 (2002) is relevant to this proceeding. In fact it is not, as that case was limited solely to the question of "whether the Baltimore County Board of Appeals, on a remand to it by this Court, adequately complied with the terms of our mandate remanding for "further proceedings." In this case, the Board is considering the issues on appeal in the first instance and not following a remand for further proceedings from a court.

will test regularly anything that's coming off of the site. So they call it contact water, so any water that then contacts in the material and then goes into our already pre planned stormwater best management practices, so they will be tested there regularly and will be monitored by MDE. Anything With An air is an air permit, so you would have to make sure the air is also being regulated depending on the type of equipment you utilize.⁵

In response to a question asking “is MDE doing that now” Mr. Jeffries said:

Right now we are, we are small, we're big, we're a farm, so we are the right to farm currently as an ag land, and what we're doing is zoning, and then this will then be regulated by MDE in the future. Yeah, but, but they have, they have already come out to the site and inspected to make sure that we are in compliance with existing regulations related to on farm composting. So they are actively policing this site and other sites that we operate.

He also said “The Maryland Department of Environment regulations govern any environmental concerns that have been raised, and we'll have to follow those regulations according to our our state permit, which has been approved.”

Commissioner Nicklas raised the following specific concerns: “

And the two specific things were the nine failed bacteria tests, I think that's big and to me, unless somebody came forward two years ago and said, My well is failing all the bacteria tests, that's new information and the children's respiratory issues . . . I pulled those out as too serious, potentially public safety and environmental issues . . . if there is something happening that is related to an environmental concern of public safety, to have a continuance for a short amount of time, to do some subject matter experts at the county to do some investigation to find out, is there something here, and if there is, could that be mitigated by by doing a redesign of of of the site plan? But I am uncomfortable approving this when across the street we're getting failed bacteria tests in wells.

Applicant representative Mr Jeffries responded by saying:

So MDE would do all, all of our permits would come through MD on any type of environmental concerns. So an example would be, we have a solid waste permit that we've already approved for the composting operations, which includes, we will need an industrial stormwater permit, which will test regularly anything that's coming off of the site. So they call it contact water, so any water that then contacts in the material and then goes into our already pre planned stormwater best management practices, so they will be tested there regularly and will be monitored by MDE. Anything with an air is an air permit, so you would have to make sure the air is also being regulated depending on the type of equipment you utilize.⁶

⁵ See February 12, 2025 hearing video: [Planning Commission - Feb 12th, 2025](#).

⁶ See February 12, 2025 hearing video: [Planning Commission - Feb 12th, 2025](#).

What Mr. Jeffries failed to disclose is that on October 4, 2024 MDE inspected the site, found that it is now operating without the required Industrial Stormwater Permit and issued the following violation notice:

“This site is in violation of Environmental Article Titles 9. The following violations//corrective actions should be addressed immediately:

The site was operating without 20-SW Industrial Stormwater Permit coverage. This site would meet the description of Sector C, subsector C1 as described in the 20-SW. // A notice of intent and application should be submitted immediately to MDE for 20-SW Industrial Stormwater Permit coverage for this facility listed above.”

Attachment 1 (highlighting added). This notice was emailed to Kristie Blumer (who was present and testified at the 2025 Site Plan hearing. She also did not disclose this open violation.

Rather than taking corrective actions “immediately,” an inspection carried out by MDE on March 13, 2025 confirmed that the site remained in violation (and to my clients’ knowledge the compost facility remains in violation as of the date of submission of this letter):

Currently there is no active permit for the operations conducted onsite. Once a 20-SW permit has been issued, this facility falls under sector C, subsector C1 (Agricultural Chemicals) requiring quarterly benchmark sampling for Nitrate plus Nitrite Nitrogen, Total Lead, Total Zinc, and Phosphorous. Additional requirements will include quarterly visual monitoring, quarterly routine inspections, annual comprehensive inspections, annual employee training records, and log/record of spills that occur onsite. Benchmark sampling results should be submitted to NetDMR at the required frequency as detailed in the 20-SW permit.

While the MDE WSA Compliance Program recognizes that efforts have been made to obtain permit coverage and employ some best management practices (BMPs) currently in use at this site,

Currently the operations at this site are in Violation of Maryland Environmental Article Title 9. The following violations // corrective actions should be addressed immediately to bring the site back into compliance:

1. Active Composting is occurring onsite without 20-SW permit coverage//You are advised to employ all BMPs listed in the SWPPP that has been developed for this site and begin quarterly benchmark sampling, quarterly visual monitoring, quarterly routine and annual comprehensive facility inspections, employee training, and records of spills. Sample results, visual monitoring records, inspections, and records of training and spills should be kept with the SWPPP onsite.

Attachment 2 (highlighting added). According to the report, this violation notice also was emailed to Ms. Blumer. Attachment 2 p. 6 of 7.

So while the Applicant on the one hand testified that the Planning Commission should rely on MDE for enforcement of environmental regulations, on the other hand did not disclose that the site is in violation of some of the very same environmental regulations that were discussed at the hearing. The misleading testimony regarding MDE's active oversight clearly mitigated some of the serious concerns of the Commissioners: "Now that I've heard about the role of MDE, I'm a little more comfortable that hopefully the health issues and the environmental issues to be addressed . . ."⁷ This was clearly prejudicial to the Appellants during that hearing.

B. The Applicant's Stormwater Management Plan Cannot Be Implemented Consistent With The Approved Site Plan.

In the Applicant's 2020 MDE submission seeking approval for a General Permit, it proposes the following Stormwater Management facilities:

1. A 24-foot wide, 4½-foot tall berm -downslope of a 20-foot wide swale, located around the perimeter of the composting piles.

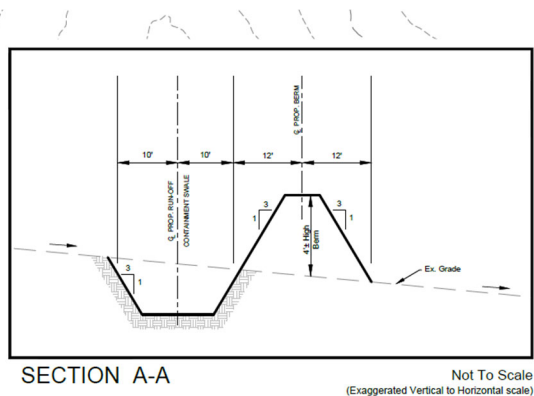


Figure 1 (Excerpted from Attachment 3)
(MDE SWM concept plan).

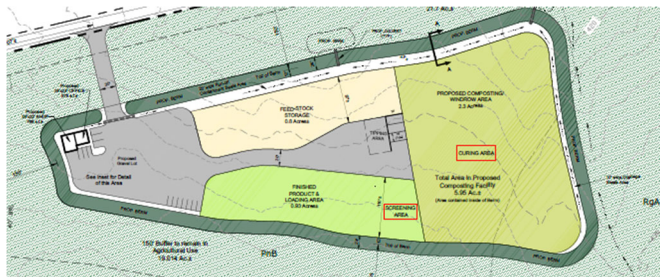


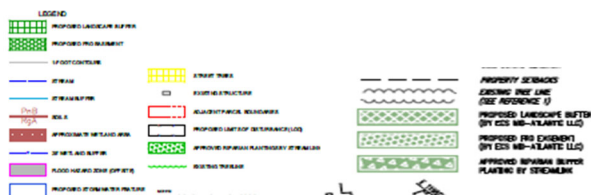
Figure 2(Dark Green "ribbon" around facility represents "berm") (excerpted from Attachment 3).⁸

⁷ One Commissioner suggested a continuance "for a short amount of time, to do some subject matter experts at the county to do some investigation to find out, is there something here, and if there is, could that be mitigated by -- by - doing a redesign of of of the site plan? But I am uncomfortable approving this when across the street we're getting failed bacteria tests in wells," which was countered with an assertion that "But a continuance is a harm to the applicant." See February 12, 2025 hearing video: [Planning Commission - Feb 12th, 2025](#). Rather, as the current information confirms, the lack of a continuance was a harm to the Appellants.

⁸Excerpt from Attachment 4 (Note 3).

In colloquy during the February 12, 2025 Planning Commission hearing, one Commissioner cautioned against the Planning Commission getting into the enforcement business with respect to matters regulated by MDE, saying “So I would advise the planning commission not to make a decision based on a concern for groundwater, because it's out of your wheelhouse. We'd also have to be very careful not to approve this with any conditions that would be contrary to the state approvals that have been granted already to this project.”⁹

Figure 4 Excerpted from Attachment 5 (2025 Site Plan)



Total area of Site:	29 Acres±
Total area of Building Footprint:	1,344 s.f.±
Total area of Paving:	1.44 Ac.± (62,752 s.f.±)
Total area in Perimeter Berm:	1.3 Acres±
Total area of Composting Operation:	5.95 Acres±
Total area of Agricultural Use:	21.7 Acres±

6

C. Collateral Estoppel Does Not Apply To Administrative Proceedings Where The Applicant Misrepresents Material Facts.

The Applicant argues that this case does not merit de novo review by the Board of Appeals on “collateral estoppel” grounds. This argument fails for at least three reasons.

First, the Applicant does not contest Appellants’ request for a de novo hearing with respect to Zoning Code § 1-19-3.300.4.A (approval criteria for site plans), which requires a finding that “Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting.” Multiple Appellants testified as to Site Plan elements causing negative impacts including site access, screening, runoff, noise and odors and suggesting ways in which those negative impacts should be minimized through alternative site design. This section of the Zoning Code goes to the heart of the issues raised during the course of the hearing.

Second, the Applicant has argued that collateral estoppel should be applied against all of the Appellants based on the question “was the party against whom the [collateral estoppel argument] is asserted given a fair opportunity to be heard on the issue?” Luke and Valerie Myers (10700 Stull Road); Nicholas & Shannon St. Angelo (10690 Stull Road); and Christopher and Ashley St. Angelo (10670 Stull Road) did not yet live in their homes. Christopher St. Angelo (10670 Stull Road) directly testified that he had nine well tests fail “in the past two years” (*after* the 2022 Site Plan hearing) and Victoria St. Angelo testified that two of her four children have been diagnosed with¹⁰ a “reactive airway disorder” and her opinion that it is the result of the extensive offensive odors which many of the Appellants testified they, their visitors and others who are present on their properties routinely experience. This testimony also goes to the heart of Code Section 1-19-8.408(D) (“Limited food waste composting activities and operations shall not cause any odor, dust, smoke, vibration, or unreasonable noise which can be detected at or beyond any property

¹⁰ Victoria St. Angelo (7114 Lakeview Drive) testified that:

I take my kids frequently for ER visits, urgent care visits or pediatric visits, specifically to address their respiratory illness symptoms, coughing, wheezing, trouble, breathing at these visits every time they test our kids for COVID, RSV and flu, and I'm frequently told they have none of them. Two out of my four kids have now been diagnosed with a reactive airway disorder, which is literally described as their bronchial tubes overreacting to irritants in the air. And I feel strongly based on our living conditions and being that we are outside around this all the time that it has to do with this, if you look, I provided you a page that talks about the health concerns and specifically the air irritants that we notice, as you know, like odor is accompanied by particles. So to say, like the odor bothers me is one thing, but to think, what is the odor? What's causing the odor, and what is this odor doing when I'm inhaling it into my lungs? So I'm just here to ask that you consider the impact that the current design of the facility has on my family and all the others in our community, and that you suggest a design that relocates the odor and the dust producing areas to a more buffered area.

See February 12, 2025 hearing video: [Planning Commission - Feb 12th, 2025](#)

line”) and this new information (along with other new testimony presented by other witnesses) materially changes the record between the 2022 and 2025 Site Plan hearings.

To deprive these Appellants the benefit of a *de novo* hearing on “collateral estoppel” grounds would be highly prejudicial to their interests, particularly given that many of their core complaints turn on the MDE issues which were core to the Planning Commission’s deliberations.

Third, Appellant’s argument overlooks the “real issue” here, which is that the Applicant mislead the Planning Commissioners as to the real status of the property with respect to MDE’s enforcement actions. One Commissioner said to the Applicant “I would kind of make the request of the applicant that they go out of the way to communicate to the neighbors and get them the information of who they can contact, MBE, numbers, websites.” Following receipt of that information, Appellants followed up with MDE and it was only at that point that they understood (a) that the Application is in active violation of MDE regulations and permit requirements; and (b) the extent to which the Applicant had misdirected the Planning Commissioners with respect to these core points. We note that the MDE documents are all a matter of public record, and the Board of Appeal can take administrative notice of them.

The Applicant’s misleading testimony deprived my clients of their right to a public hearing predicated on fundamental fairness and due process. The only way to cure these violations of the Site Plan hearing now on appeal is to hold a *de novo* hearing with a new opportunity to cross-examine witnesses and introduce supplemental testimony.

D. The Applicant Does Not Appear To Have A Valid General Permit

Maryland Regulations say that “Authorization under the General Composting Facility Permit ends when the earliest of the following events occurs,” and includes “A Change in ownership or control of the composting facility.” COMAR 26.04.11.11(G)(2)(c). General Permit GP-CF01 was issued to owner Resolutions Solutions LLC in 2021. Attachment 6. The 2022 Site Plan (filed by applicant Utica Bridge Farms, LLC (“Applicant”)) identified “Key City Compost” as the operator (“First Operator”). That Site Plan expired January 12, 2025. The 2025 Site Plan application, also filed by Utica Bridge Farms, LLC, identified Compost Crew, Inc. as the operator (“Second Operator”). These are two distinctly different corporate entities, and as such the Applicant no longer has authorization under GP-CF01 to operate at all. As the Planning Commission was under the impression that all necessary permits had been approved, remained valid, and the facility was operating in accordance with them, this additional concern as to whether the Applicant actually has the requisite underlying permit further underscores the need for a *de novo* hearing.

III. Conclusion

For the reasons stated hearing, Appellants request that the Board of Appeals reverse and vacate the Site Plan approval in its entirety. In the alternative, Appellants request that the Board’s hearing on the pending appeal be a *de novo* evidentiary hearing, with express direction that the Appellants will have an opportunity to submit new evidence, testimony, and conduct cross-examination in order to cure the lack of due process in the Planning Commission’s proceedings resulting from

the Applicant' misrepresentation and/or misleading testimony in the current Planning Commission record. Failure to do so will be unfairly highly prejudicial to the Appellants by stripping them of their due process right to a fundamentally fair hearing..

Respectfully Submitted,

Michele McDaniel Rosenfeld

Michele McDaniel Rosenfeld

Cc: Casey L. Cirner, Esq., Attorney for Applicant
Scott C. Wallace, Attorney for Applicant
Tolson DeSa, Zoning Administrator
Michael Paone, Zoning Planner I
Thomas P. Sinton, Assistant County Attorney
Kathy L. Mitchell, Senior Assistant County Attorney



Maryland Department of Environment
Water and Science Administration
Compliance Program
1800 Washington Blvd, Suite 420
Baltimore, MD 21230-1719
410- 537-3510, 1-800-633-6101

Inspector: Jacob Haglund
AI ID: 167276
Site Name: Key City Compost at Utica Bridge Farm
Facility Address: 10661 Stull Road, Thurmont, MD 21788
County: Frederick County
Start Date/Time: October 04, 2024 09:50 AM
End Date /Time: October 04, 2024 11:20 AM
Complaint Number: 293243
Media Type(s): NPDES Industrial Stormwater
Contact(s):

- Phil Westcott - phil@thecompostcrew.com
- Devin - devin.m@compostcrew.com
- Reuben Krofft – MDE, LMA: reuben.krofft@maryland.gov
- Kristie Blumer - kristie@compostcrew.com
- Julie- julie@thecompostcrew.com

NPDES Industrial Stormwater

Permit / Approval Numbers: Not obtained
NPDES Numbers: Not obtained
Inspection Reason: Complaint, Initial Quarterly, Initial Yearly, Routine Scheduled
Site Status: Active
Compliance Status: Noncompliance
Recommended Action: Continue Routine Inspection
Evidence Collected: Record Review, Visual Observation
Delivery Method: Emailed to the above contacts on 10/08/2024.
Weather: Overcast

Inspection Findings:

An announced complaint meeting and inspection were conducted at the location listed above. There site representatives listed above were all on-site and provided site details. This inspection was done with LMA, Reuben Krofft. The site is operating without 20-SW Industrial Stormwater Permit coverage. The operation of the site would be covered under Composting in Sector C, subsector C1 of the 20-SW permit.


While walking around the site it was observed that compost piles are evident that are potentially exposed to stormwater. Such compost waste has the likelihood to discharge off-site from stormwater and therefore the site should obtain SW coverage. The site is receiving compost and mixing the material with mulch material. No other containments are outside and exposed to stormwater.

The 20-SW permit would require a stormwater pollution prevention plan, routine facility inspections, comprehensive site compliance evaluations, quarterly visual sampling, benchmark monitoring, trainings, and maintaining a spill log. Ensure a notice of intent and application are submitted for permit coverage. Details and how to apply for the permit can be found on this website: <https://mde.maryland.gov/programs/permits/watermanagementpermits/pages/stormwater.aspx>

This site is in violation of Environmental Article Titles 9. The following violations// corrective actions should be addressed immediately:

Inspection Date: October 04, 2024
Site Name: Key City Compost at Utica Bridge Farm
Facility Address: 10661 Stull Road, Thurmont, MD 21788

- 1) The site was operating without 20-SW Industrial Stormwater Permit coverage. This site would meet the description of Sector C, subsector C1 as described in the 20-SW. // A notice of intent and application should be submitted immediately to MDE for 20-SW Industrial Stormwater Permit coverage for this facility listed above.

Inspector:		10/04/2024	Received by:	_____
	Jacob Haglund /Date			Signature/Date
	jacob.haglund@maryland.gov			
	301-689-1486			_____
				Print Name



KEY CITY COMPOST

Composting Facility Operations Plan

Revised November 2020

Prepared by

Key City Compost
4539 Metropolitan Court
Frederick, MD 21704
240.608.0283
info@keycompost.com

with assistance from
Atlas Organics Consulting, LLC
156 Magnolia St
Spartanburg, SC 29304
864.278.2322
info@atlasorganics.net

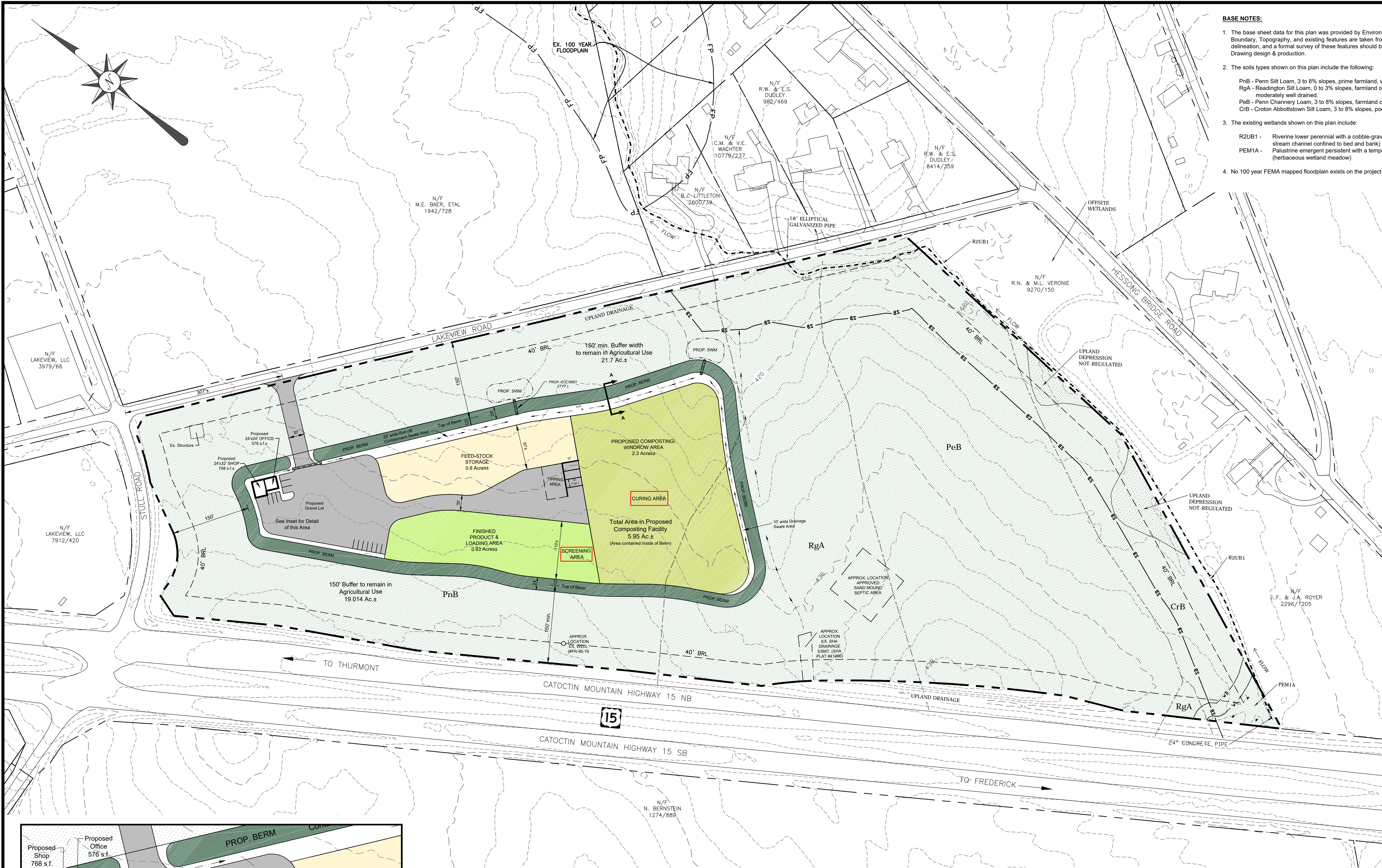
- Newly formed windrows and ASPs will be capped by high-carbon wood waste or finished compost as a tool to mitigate physical access as well as odor attraction to the N heavy feedstocks within a newly formed windrow.
- All onsite staff will be trained and encouraged to report any and all signs of vectors. Feedback loops are critical in understanding where our practices are falling short and where we need to put effort and attention.

4.3 Description of Methods Used to Control Contact Water and Stormwater

- The composting facility is designed with numerous features to assist in the management of Contact and Stormwater.
- Site slope: The site has been selected for its advantageous baseline slope. The site will be graded to reduce pockets and imperfections in this desired slight grade.
- Material placement: Finished, curing, or aging materials will be placed uphill of incoming feedstocks and materials in early and mid-life processing stages.
- The site will be buried on all sides to control both run-off and run-on to areas dedicated as the “Composting Facility”.
- A swale system as well as a bio-remediation area is in place to allow for passive treatment to both contact and stormwater.
- Please see Section A-A of attached site plan for cross sectional detail of SWM features. A MDE General Permit for Discharges of Stormwater Associated with Industrial Activity (Maryland General Permit No. 12-SW-A) will be obtained prior to starting operations.

4.4 Emergency Preparedness Plan for Responding to and Minimizing an Occurrence of Fires and Other Emergencies

- Prevention Measures:
 - Design facility to meet regulatory requirements.
 - 30 ft. of clear space at end of feedstock piles and active composting/curing windrows.
 - 10 ft. aisles between composting windrows.
 - Monitor temps (multi-point) within all windrows frequently.
 - Have a no smoking policy on the composting facility.
 - Post “no smoking” signs throughout the facility.
 - Have a summarized prevention plan and provide staff training on that plan.
- Response Measures:
 - Maintain ease of access to all emergency response resources.



BASE NOTES:

- The base sheet data for this plan was provided by Environmental Systems Analysis, Inc. (ESA). Boundary, Topography, and existing features are taken from their previously prepared wetlands delineation, and a formal survey of these features should be done prior to Site Plan/Construction Drawing design & production.
- The soils types shown on this plan include the following:
PnB - Penn Silt Loam, 3 to 8% slopes, prime farmland, well drained.
RgA - Readington Silt Loam, 0 to 3% slopes, farmland of statewide importance, moderately well drained.
PeB - Penn Channery Loam, 3 to 8% slopes, farmland of statewide importance, well drained.
CrB - Croton Abbottstown Silt Loam, 3 to 8% slopes, poorly drained.
- The existing wetlands shown on this plan include:
R2UB1 - Riverine lower perennial with a cobble-gravel unconsolidated bottom (perennial stream channel confined to bed and bank)
PEM1A - Palustrine emergent persistent with a temporarily flooded water regime (herbaceous wetland meadow)
- No 100 year FEMA mapped floodplain exists on the project site.



VICINITY MAP

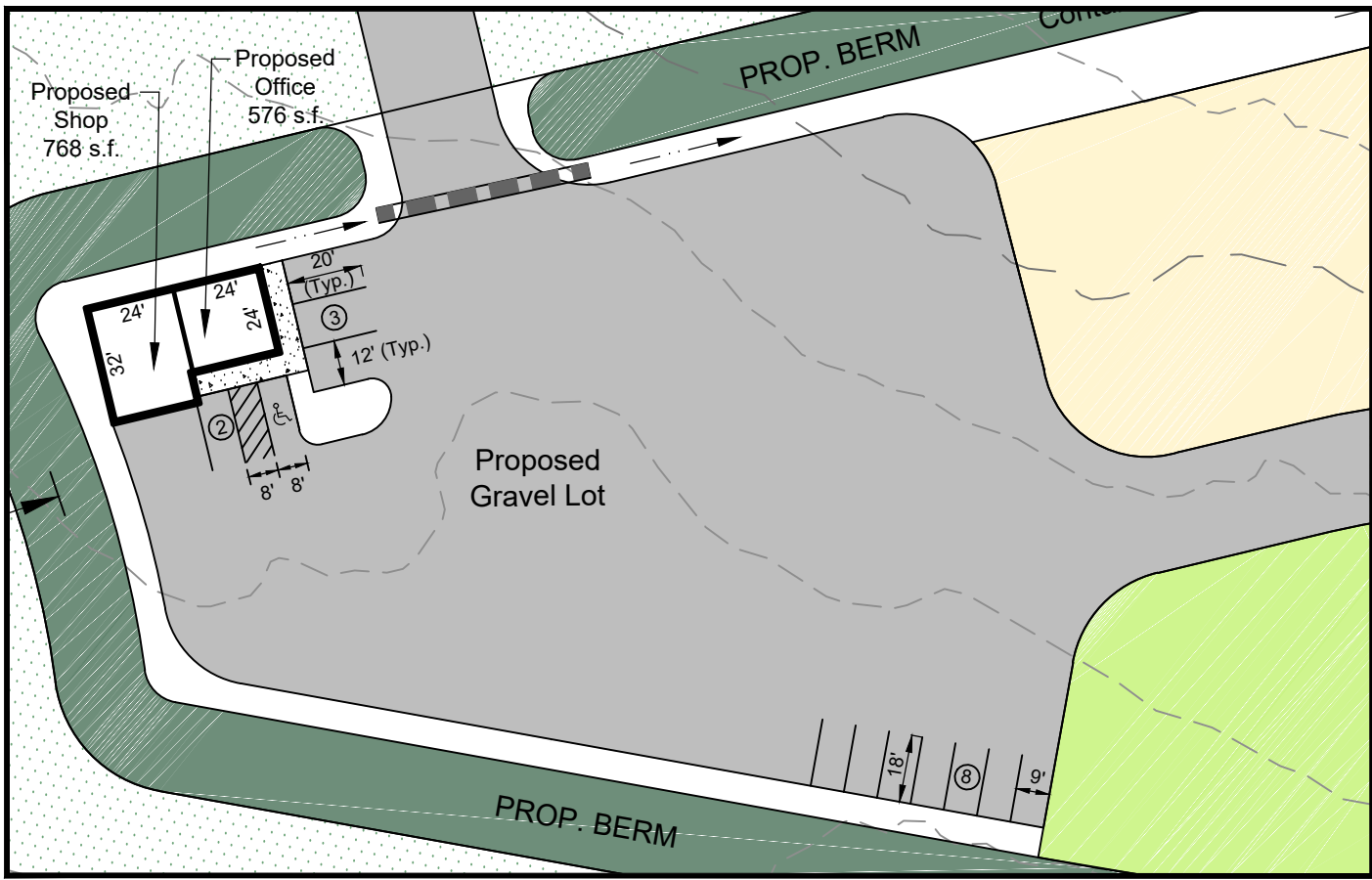
DEVELOPMENT PROGRAM & GENERAL NOTES

- The Project site totals approximately 29 acres ± and is zoned Agricultural (AG). The project site is located along US, Route 15 at Stull Road within Frederick County, MD.
- Proposed use is a State & County Permitted "Tier 2 Small" Limited Commercial Food Waste Composting Facility on the interior 5 acres ± of the subject site, and Agricultural Activities for Utica Farms on the perimeter areas totaling 21.7 acres± of the site.
- AREA SUMMARY:**
Total area of Site: 29 Acres
Total area of Building Footprint: 1,344 s.f.±
Total area of Paving: 1.44 Ac.± (62,752 s.f.±)
Total area in Perimeter Berm: 1.3 Acres±
Total area of Composting Operation: 5.95 Acres±
Total area of Agricultural Use: 21.7 Acres±
- Parking Requirements:**
Solid Waste Operations: 1 space for every 2 employees, plus 1 for each business motor vehicle.
Max Employees Proposed: 10 employees
Number of Business Vehicles: 8
TOTAL PARKING REQUIRED: 13 Spaces Required.
TOTAL PARKING PROVIDED: 13 Spaces Provided.
- Windrows will be established in "Extended Aerated Static Piles", on a pads with forced air for appropriate curing of finished product.
- Feedstock types proposed are: Woodchips, Yard Debris, Food Waste (Organics), Manure and Animal Bedding.
- Incoming Food Waste will be dumped into a containment pit, mixed, and turned immediately with existing feedstock, put to Windrow, and capped with additional feedstock.
- A berm will be constructed, as shown on plan, 150' off of property line and will be planted with buffer trees. Additional vegetative screening will also be provided along the property lines at the perimeter of the site.
- Anticipated Employees proposed for the Composting operation is 6-10 employees.
- The proposed Office & Shop will employ the use of a composting toilet and gray-water system similar to "Clivus Multrum" & "Nutricycle" systems, or approved equal.
- Anticipated Traffic for the Composting operation will be mostly Single Axle, 10+/- visits per day.
- Bulk/Wholesale sales only are anticipated. No on-site Retail Sales are planned at this time.
- All relevant requirements as set forth in the Frederick County Code, and all required approvals, including Storm Water Management measures, Adequate Public Facilities Ordinance & Forest Conservation Ordinance approvals, Landscaping, etc. must be met through the normal Frederick County approval process. Future Office, Shop, Scales, Signs, & Lighting will be proposed with a formal Site Plan and approval will be obtained prior to implementation.
- No portion of the limited food waste composting activity or operation shall be located within the floodplain.
- Per Section 1-19-8.408 of the Frederick County Zoning Ordinance entitled "LIMITED FOOD WASTE COMPOSTING IN THE A DISTRICT", the following criteria shall be met:
 - Limited food waste composting activities and operations shall not cause any odor, dust, smoke, vibration, or unreasonable noise which can be detected at or beyond any property line.
 - All activities and operations associated with the limited food waste composting facility shall be located a minimum of 150 feet from the property lines and at least 300 feet from a dwelling not owned or operated by the operator of the composting facility.
 - A vehicular circulation plan shall be submitted indicating that adequate turn radius is provided both to and from the subject property. Adequate space for the safe movement of all proposed vehicles and equipment being utilized on site shall be provided.
 - All materials at the limited food waste composting facility shall be sorted and processed in a manner that prevents harboring or breeding of insects or animals, and prevents creation of odor, litter, or other nuisances that may be harmful to the public health or the environment.
 - All incoming materials associated with food waste must be incorporated into the composting processes within 24 hours. Liquids must be controlled to prevent run off during offloading, storage, and processing of all received wastes.
 - Limited food waste composting activities and operations shall comply with all applicable federal, state, and local regulations and shall conform to the requirements of all federal and State of Maryland permits and other approvals.

Additional Note: Jorge L. Montezuma, P.E. added the information in the red boxes on 10/7/2020. Nothing else was added or removed.

OWNER:

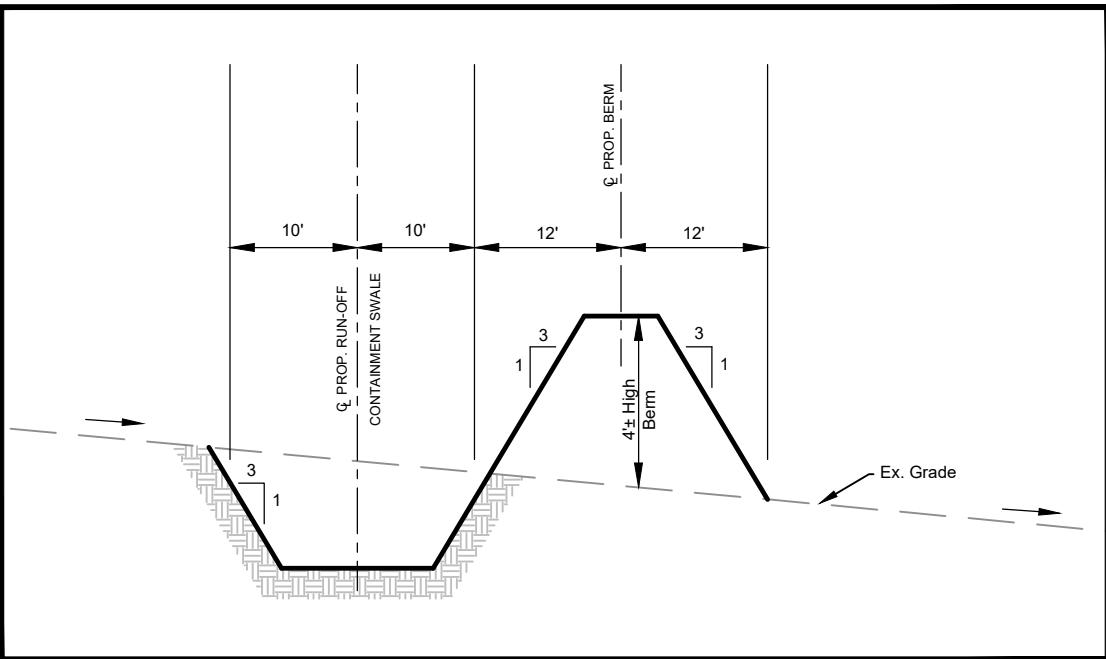
William D. Jefferies Revocable Trust
Richard Jefferies, Trustee
10616 Old Frederick Road
Thurmont, MD 21788



INSET

Note:

The information provided hereon is for conceptual purposes only, and is based on current regulations and existing information available. No detailed engineering has been designed, nor have any jurisdictional or regulatory agency approvals been obtained. Therefore, all of the information contained on this Concept Sketch should be used for general conceptual purposes only. Any density or building square footage yields or other potential uses of this property set forth on any Conceptual Plan are subject to the full engineering design and regulatory agency approval processes prior to assuming that any of the proposed uses or yields can be realized on this property. Detailed planning, engineering, and surveying must be completed during the normal plan preparation process and all jurisdictional approvals must be obtained. The conceptual information show hereon is subject to change as the project proceeds through these processes. Therefore, all information hereon must be utilized for conceptual purposes only.

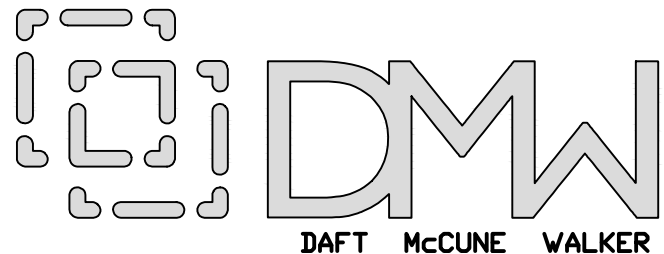


SECTION A-A

Not To Scale
(Exaggerated Vertical to Horizontal scale)

LEGEND:

- PROPOSED WINDROWS
- FEED-STOCK STORAGE
- FINISHED PRODUCT & LOADING AREA
- PROPOSED GRAVEL
- PROPOSED BERM
- AREA REMAINING IN AGRICULTURAL USE BUFFER



8 EAST SECOND STREET SUITE 201 FREDERICK, MD 21701
P. 301 696 9040 F. 301 696 9041 WWW.DMW.COM

LAND DESIGN BY : LPC

PRELIMINARY ENGINEERING FEATURES BY : DMW/LPC

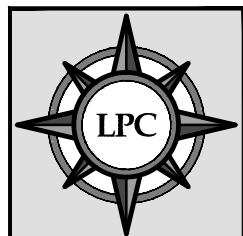
DRAFTED BY : LPC/DMW

AUTOCAD VERSION 2014

PLAN REVISIONS :

NO.	REVISIONS	BY	DATE
1	Added label locations for curing and screening areas.	JLM	10/7/2020

SEAL :



LINGG
PROPERTY CONSULTING
256 West Patrick Street, Suite 2A Frederick, Maryland 21701
www.LinggPropertyConsulting.com
LinggPC@xecu.net - e (301) 644-2121 - o (301) 696-3221 - f

- Land Use Consulting
- Subdivision Planning
- Land Planning & Design
- Project Management
- Site Planning
- Zoning Entitlement Consulting
- Development Rights & Approval Strategies
- Civil Engineering & Land Surveying Management

CONCEPT SKETCH PLAN

Key City Compost

SITUATED ON STULL ROAD AT U.S. ROUTE 15
FREDERICK COUNTY COUNCIL ELECTION DISTRICT No. 5
FREDERICK COUNTY, MARYLAND

ONE INCH

SCALE:

1" = 100'

INITIAL DWG DATE:

APRIL 2019

SHEET 1 OF 1

LPC PROJECT NO.

0042-23



Maryland Department of Environment
Water and Science Administration
Compliance Program
1800 Washington Blvd, Suite 420
Baltimore, MD 21230-1719
410- 537-3510, 1-800-633-6101

Inspector: Peter Resh
AI ID: 167276

Site Name: Compost Crew, formerly “Key City Compost” at Utica Bridge Farm
Facility Address: 10661 Stull Road, Thurmont, MD 21788
County: Frederick County

Start Date/Time: March 18, 2025 12:45 PM
End Date /Time: March 18, 2025 01:45 PM

Complaint Number: 293243
Media Type(s): NPDES Industrial Stormwater

Contact(s): Kristie Blumer (Business Owner, Compost Crew) Via Phone
Julie Williamson (Operations Superintendent, Compost Crew)
Devin McElfresh (Operator, Compost Crew)

NPDES Industrial Stormwater

Permit / Approval Numbers: N/A
NPDES Numbers: N/A
Inspection Reason: Initial Quarterly, Initial Yearly, Routine Scheduled
Site Status: Active
Compliance Status: Noncompliance
Site Condition: Noncompliance
Recommended Action: Continue Routine Inspection
Evidence Collected: Photos or Videos Taken, Visual Observation
Delivery Method: Email
Weather: Clear

Inspection Findings: Today’s inspection was conducted in response to continued citizen complaints alleging impacts/pollution to stormwater ditches adjacent to this site. Upon arrival at the site, I was met by Ms. Williamson and Mr. McElfresh who answered questions and accompanied me during my inspection. I spoke with Ms. Blumer about obtaining a 20-SW permit, she explained that a Stormwater Pollution Prevention Plan (SWPPP) has been developed, and a Notice of Intent (NOI) has been submitted to MDE’s WSA Industrial Stormwater Permits Division. I conducted a site walkthrough. During my inspection I observed an area of active compost operations. The area consisted of various stockpiles; nine (9) windrows of active composting in various stages of decomposition, three (3) stockpiles of finished product. I observed noticeable leachate/runoff from the operation. Vegetation along the flow path was noticeably greener and lusher than surrounding vegetation. The discharge flows toward Lakeview Road and into a stormwater ditch that ultimately drains to an Unnamed Tributary of Fishing Creek. Aside from the slight odor from the compost operation, I did not see any noticeable impact to the stormwater ditch and receiving waters. I did notice some windblown plastic bags that came from the operation. The water used on the compost piles and other cleaning operations (bin cleaning) conducted indoor onsite is collected solely from rain barrels. All wash water is collected and reused in the compost operation. No discharge from the washing operation was observed. I did not observe any other

Inspection Date: March 18, 2025
Site Name: Key City Compost at Utica Bridge Farm
Facility Address: 10661 Stull Road, Thurmont, MD 21788

potential sources of pollutants from this operation. There were two spill kits located onsite to be used in the event of a spill of fuel or other liquid waste material.

Currently there is no active permit for the operations conducted onsite. Once a 20-SW permit has been issued, this facility falls under sector C, subsector C1 (Agricultural Chemicals) requiring quarterly benchmark sampling for Nitrate plus Nitrite Nitrogen, Total Lead, Total Zinc, and Phosphorous. Additional requirements will include quarterly visual monitoring, quarterly routine inspections, annual comprehensive inspections, annual employee training records, and log/record of spills that occur onsite. Benchmark sampling results should be submitted to NetDMR at the required frequency as detailed in the 20-SW permit.

While the MDE WSA Compliance Program recognizes that efforts have been made to obtain permit coverage and employ some best management practices (BMPs) currently in use at this site,

Currently the operations at this site are in Violation of Maryland Environmental Article Title 9

The following violations // corrective actions should be addressed immediately to bring the site back into compliance:

1. Active Composting is occurring onsite without 20-SW permit coverage // You are advised to employ all BMPs listed in the SWPPP that has been developed for this site and begin quarterly benchmark sampling, quarterly visual monitoring, quarterly routine and annual comprehensive facility inspections, employee training, and records of spills. Sample results, visual monitoring records, inspections, and records of training and spills should be kept with the SWPPP onsite.

The MDE WSA Compliance Program advises that all locations operating under the business name “Compost Crew” in the State of Maryland obtain 20-SW permit coverage for their respective locations. Additionally, you are advised to continue to work with MDE’s WSA Industrial Stormwater Permits Division to obtain 20-SW permit coverage for this site location.

Please contact me upon implementation of the requested corrective actions necessary to bring the site into compliance. If you have any questions or need assistance, please contact me at the email address listed below or you can call me at 443.835.9397. You may also contact my supervisor Kate Ansalvish at 443.829.9405.

Photos of today’s inspection are provided below:



Photo 1: Compost windrows and piles at this site. Photo looking west.

Inspection Date: March 18, 2025
Site Name: Key City Compost at Utica Bridge Farm
Facility Address: 10661 Stull Road, Thurmont, MD 21788



Photo 2: Leachate from one of the unfinished compost piles. Photo looking east.



Photo 3: Area of site runoff toward Lakeview Road.

Inspection Date: March 18, 2025
Site Name: Key City Compost at Utica Bridge Farm
Facility Address: 10661 Stull Road, Thurmont, MD 21788



Photo 4: Area of site runoff looking toward the compost windrows and onsite buildings. Photo looking west.



Photo 5: Spill kits located outside of the building.

Inspection Date: March 18, 2025
Site Name: Key City Compost at Utica Bridge Farm
Facility Address: 10661 Stull Road, Thurmont, MD 21788



Photo 6: Fuel and lubricants stored on secondary containment pad inside the building.



Photo 7: Stormwater ditch along Lakeview Road. Photo looking south east.

Inspection Date: March 18, 2025
 Site Name: Key City Compost at Utica Bridge Farm
 Facility Address: 10661 Stull Road, Thurmont, MD 21788



Photo 8: discharge of stormwater ditch into an unnamed tributary of Fishing Creek.

NPDES Industrial Stormwater - Inspection Checklist

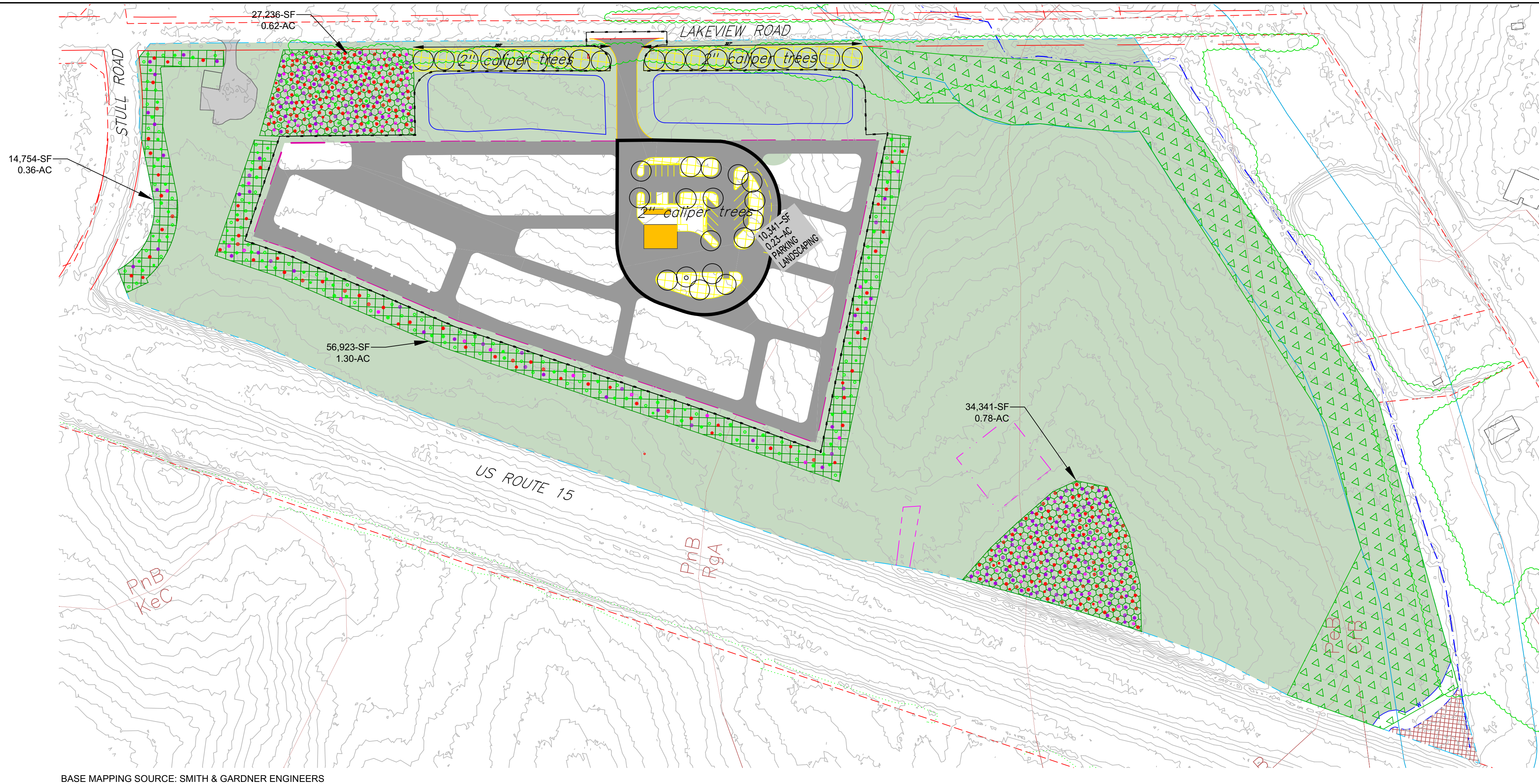
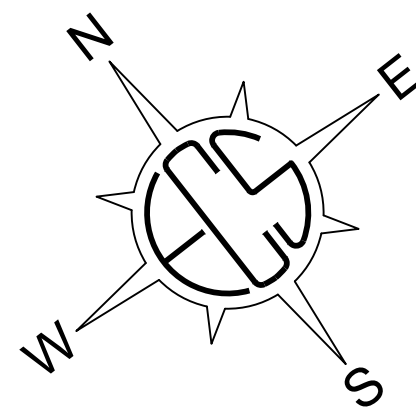
Inspection Item	Status	Comments	
Does the facility have a discharge permit?	Out of Compliance	see findings	
Has a Stormwater Pollution Prevention Plan (SWPPP) been implemented as required?	Corrective Actions Required	see findings	
If monitoring of benchmark parameters is required, has the permittee performed the required quarterly monitoring?	Corrective Actions Required	see findings	
Were visible pollutants observed in the receiving waters or in a position likely to pollute water of the State?	Corrective Actions Required	see findings	
If discharges were observed, were samples of the discharge taken?	No	see findings	

Report provided to: Kristie Blumer kristie@compostcrew.com

Inspector: _____ Received by: _____
 Peter D. Resh /Date
 peter.res@maryland.gov
 301-689-1483
 Signature/Date

Inspection Date: March 18, 2025
Site Name: Key City Compost at Utica Bridge Farm
Facility Address: 10661 Stull Road, Thurmont, MD 21788

Print Name



BASE MAPPING SOURCE: SMITH & GARDNER ENGINEERS

LEGEND

	PROPOSED LANDSCAPE BUFFER
	PROPOSED FRO EASEMENT
	1-FOOT CONTOURS
	STREAM
	STREAM BUFFER
	SOILS
	APPROXIMATE WETLAND AREA
	25' WETLAND BUFFER
	FLOOD HAZARD ZONE (OFFSITE)
	PROPOSED STORMWATER FEATURE
	PROPOSED PAVEMENT
	PROPOSED BUILDING
	EXISTING SEPTIC AREA
	STREET TREES
	EXISTING STRUCTURE
	ADJACENT PARCEL BOUNDARIES
	PROPOSED LIMITS OF DISTURBANCE (LOD)
	APPROVED RIPARIAN PLANTINGS BY STREAMLINK
	EXISTING TREELINE

- NOTES:
- NO FOREST AREA CURRENTLY EXISTS ONSITE.
 - RIPIARIAN AREA HAS BEEN PLANTED BY STREAMLINK DNR GRANT AND THEREFORE CANNOT BE PLANTED IN ASSOCIATION WITH FRO.
 - STREET TREE REQUIREMENT IS BEING MET VIA PROPOSED STREET TREES, FRO, EXISTING TREE LINES, AND LANDSCAPING SCREENING PLANTINGS.

LANDSCAPING LEGEND

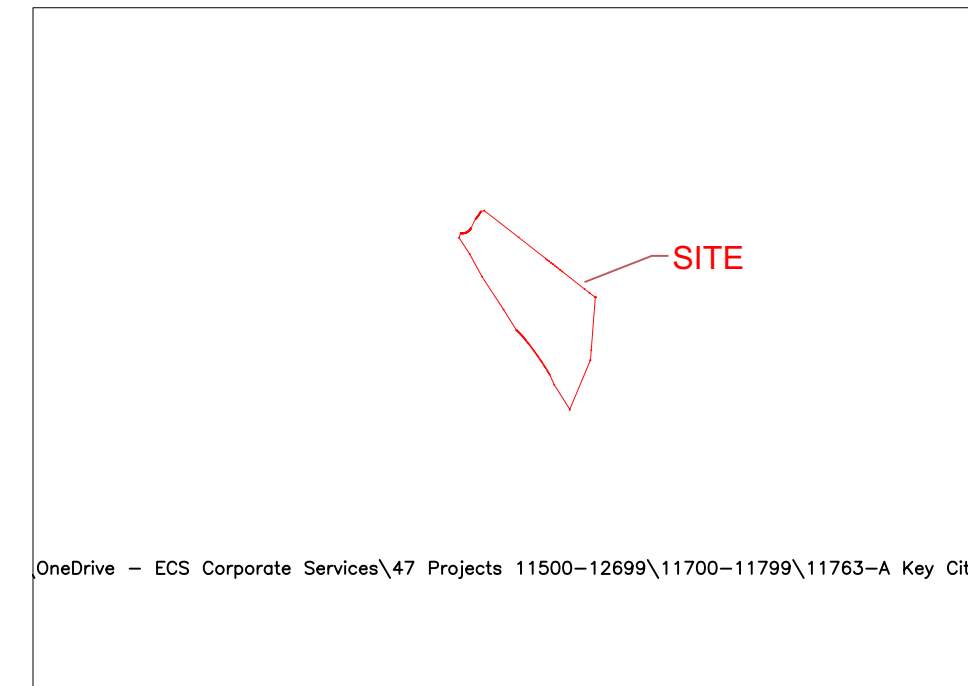
SYMBOL	COMMON NAME	BOTANICAL NAME
EVERGREEN TREES		
	EASTERN WHITE PINE*	PINUS STROBUS
	VIRGINIA PINE*	PINUS VIRGINIANA
	EASTERN RED CEDAR*	JUNIPERUS VIRGINIANA
	AMERICAN RED PINE	PINUS RESINOSA
	WHITE SPRUCE	PICEA GLAUCA
	BALSAM FIR	ABIES BALSAMEA
	FRASER FIR	ABIES FRASERI
	BALD CYPRESS*	TAXODIUM DISTICHUM
DECIDUOUS TREES		
	YELLOW BIRCH*	BETULA ALLEGANIENSIS
	SWAMP WHITE OAK*	QUERCUS BICOLOR
	TULIP POPLAR*	LIRIODENDRON TULIPIFERA
	SWEET BIRCH*	BETULA LENTA
	WHITE OAK*	QUERCUS ALBA
	BLACK LOCUST*	ROBINIA PSEUDOACACIA
	BLACK WALNUT*	JUGLANS NIGRA
	PIN OAK*	QUERCUS PALUSTRIS
	SHAGBARK HICKORY*	CARYA OVATA
	RED OAK*	QUERCUS RUBRA
	RED MAPLE*	ACER RUBRUM
	AMERICAN SWEETGUM**	CEPHALANTHUS STYRACIFLUA
	BLACK WILLOW*	SALIX NIGRA
	SHELLBARK HICKORY*	CARYA LACINIOSA
	BASSWOOD*	TILIA GLABRA
SHRUBS		
	ELDERBERRY*	SAMBUCUS CANADENSIS
	GRAY DOGWOOD*	CORNUS RACEMOSA
	BUTTONBUSH	CEPHALANTHUS OCCIDENTALIS
	REDBUD*	CERCIS CANADENSIS

* NATIVE TO FREDERICK COUNTY
** NATURALIZED ADDITION TO FREDERICK COUNTY

- Planting Specification Notes
- Type: see planting schedules this sheet and cover sheet.
 - Plant Quality Standards: The plants selected shall be healthy and sturdy representatives of their species. Seedlings shall have a minimum top growth of 18". The diameter of the root collar (the part of the root just below ground level) shall be at least 3/8". The roots shall be well developed and at least 8" long. No more than twenty-five percent (25%) of the root system (both primary and auxiliary/fibrous roots shall be present. Plants that do not have an abundance of well developed terminal buds on the leaders and branches shall be rejected. Plants shall be shipped by the nursery immediately after lifting from the field or removal from the green house, and planted immediately upon receipt by the landscape contractor. If the plants cannot be planted immediately after delivery to the reforestation site, they shall be stored in the shade with their root masses protected from direct exposure to sun and wind by the use of straw, peat moss, compost, or other suitable material and shall be maintained through periodic watering, until the time of planting.
 - Plant Handling: the quantity of seedlings taken to the field shall not exceed the quantity that can be planted in a day. Seedlings, once removed from the nursery or temporary storage area shall be planted immediately.
 - Timing of Planting: The best time to plant seedlings is while they are dormant, prior to spring budding. The most suitable months for planting are March and April, when the soil is moist, but may be planted from March through November. No planting shall be done while ground is frozen. Planting shall occur within one growing season of the issuance of grading/building permits and/or reaching the final grades and stabilization of planting areas.
 - Seedling Planting: Tree seedlings shall be hand planted using a dibble bar or sharp-shooter shovel. It is important that the seedling be placed in the hole so that the roots can spread out naturally; they should not be twisted, balled up or bent. Moist soil should then be packed firmly around the roots. Seedlings should be planted at a depth where their roots lie just below the ground surface. Air pockets should not be left after closing the hole which would allow the roots to dry out. See planting details for further explanation. If the contractor wishes to plant by another method, the preparer of this tree conservation plan must be contacted and give his approval before planting may begin.
 - Spacing: See Landscaping Plan for spacing requirements. Also refer to the Landscaping Plan for a description of the general planting theory, details this sheet.
 - Soil: Upon the completion of all grading operations, a soil test shall be conducted to determine what soil preparation and soil amendments, if any, are necessary to create good tree growing conditions. Soil samples shall be taken at a rate that provides one soil sample for each area that appears to have a different soil type (if the entire area appears uniform, then only one sample is necessary), and submitted for testing to a private company. The company of choice shall make recommendations for improving the existing soil. The soil will be tested and recommended for corrections of soil texture, pH, magnesium, phosphorus, potassium, calcium and organic matter.
 - Soil Improvement Measures: the soil shall then be improved according to the recommendations made by the testing company.
 - Fencing and Signage: Final protective fencing shall be placed on the visible and/or development side of planting areas. The final protective fence shall be installed upon completion of planting operations unless it was installed during the initial stages of development. Signs shall be posted per the signage detail on this sheet.
 - Planting method: Consult the Planting Detail(s) shown on this sheet
 - Mulching: Apply two-inch thick layer of woodchip or shredded hardwood mulch (as noted) to each planting site (see detail shown on the Landscaping Plan).
 - Groundcover Establishment: the remaining disturbed area between seedling planting sites shall be seeded and stabilized within appropriate mix from the Natural Resources Conservation Practice Standard for Conservation Cover (Code 327).
 - Table 2: Selected List of Herbaceous Cover Mixes based on the specific characteristics of the site.
 - Mowing: No mowing shall be allowed in any planting area.
 - Source of Seedlings: state name, address, and phone number of nursery or supplier.

This Forest Stand Delineation has been prepared in accordance with all State and local ordinances which were in effect as of the date shown below. The undersigned is a qualified professional in accordance with COMAR 08.19.06.01.

Jennifer Anderson 02/22/2022
Jennifer Anderson



VICINITY MAP
TAX MAP 40, GRID 21, PARCEL 94
ACCOUNT NO. 20-394129
SOURCE: POINTFINDER SUITE



SOIL MAP

Map Unit Symbol	Map Unit Name	Hydric Soil	K-Value
CrB	Croton-Abbottstown silt loams, 3 to 8 percent slopes	Yes	.37
PeB	Penn channery loam, 3 to 8 percent slopes	No	.324
PnB	Penn silt loam, 3 to 8 percent slopes	No	.37
RgA	Readington silt loam, 0 to 3 percent slopes	Yes	.43

STREET TREE CALCULATION (ROADWAY FRONTAGE):

LAKEVIEW ROAD:
295-ft / 35-ft = 8.4 trees (9 trees provided)
327-ft / 35-ft = 9.3 trees (10 trees provided)

STULL ROAD:
373-ft / 35-ft = 10.6 trees (provided via landscaping buffer)

US-15:
2,136-ft / 35-ft = 61.0 trees (provided via landscaping buffer)

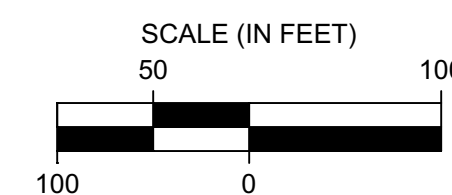
20% PARKING LOT CANOPY CALCULATION:

PARKING LOT PAVEMENT COVERAGE:
51,705-sf

51,705-sf x 0.2 = 10,341-sf
10,341-sf / 707-sf = 14.6 trees (17 provided)

PLANTING QUANTITY CALCULATION:

1.40-ac x 350 stems/ac = 490 stems (875 provided)



OWNER/APPLICANT:
UTICA BRIDGE FARMS, LLC
7245 LAKEVIEW ROAD,
FREDERICK MD 21701
818-762-4771

KEY CITY COMPOST
7245 LAKEVIEW ROAD
FREDERICK COUNTY, MARYLAND

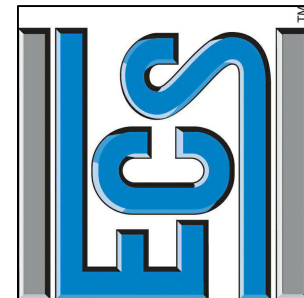
PLANTING PLAN
UTICA BRIDGE FARM

ECS REVISIONS	
12/10/2021 LSC	
2/22/22 JDA	
ENGINEER	DRAFTING
AMM	LSC
SCALE	
1" = 100'	
PROJECT NO.	
47:11763	
SHEET	
SP5	
DATE	
11/18/2021	

CELEBRATING
OVER 30 YEARS
OF EXCELLENCE

ECS - MID-ATLANTIC, LLC
1340 CHARMWOOD ROAD
SUITE B
HANOVER, MD 21076
1-800-622-3469
1-410-669-4500
(FAX) 760-864-4627

"SETTING THE STANDARD FOR SERVICE"



Division of Planning and Permitting

Department of Development Review and Planning

Approved: Cody Shaw 1/12/2022

Frederick County Planning Commission

KEY CITY COMPOST AT UTICA BRIDGE FARMS

MONDAY - SATURDAY
7:00 AM - 6:00 PM
7245 LAKEVIEW ROAD

EMERGENCY CONTACT
PHIL WESTCOTT
4539 METROPOLITAN CT.
FREDERICK, MD 21704
PHONE: 240-409-1979

BUSINESS SIGN
N.T.S.

LINE TABLE (REFERENCE 2)			
LINE #	DIRECTION	LENGTH	
L1	S16° 37' 06"W	15.50'	
L2	S86° 16' 57"W	30.14'	
L3	S58° 11' 10"W	100.67'	
L4	S30° 05' 22"W	102.52'	
L5	S35° 51' 24"W	97.49'	
L6	S30° 05' 06"W	15.03'	
L7	S75° 08' 30"W	22.45'	
L8	S52° 29' 26"E	25.90'	
L9	S39° 03' 37"W	18.29'	
L10	S33° 26' 25"E	204.04'	
L11	S30° 34' 40"E	100.13'	

LINE TABLE (REFERENCE 2)			
LINE #	DIRECTION	LENGTH	
L12	S25° 50' 44"E	151.33'	
L13	S30° 34' 40"E	100.13'	
L14	S33° 26' 25"E	100.00'	
L15	S36° 52' 26"E	200.36'	
L16	S36° 52' 26"E	50.09'	
L17	S44° 45' 00"E	101.98'	
L18	S33° 26' 25"E	400.00'	
L19	S31° 31' 53"E	150.08'	
L20	S33° 26' 25"E	150.00'	
L21	S28° 51' 58"E	250.00'	
L22	S33° 26' 25"E	197.00'	

LIFE AND SAFETY NOTES

- PREMISES IDENTIFICATION SHALL BE COMPLIANT WITH FREDERICK COUNTY ORDINANCE 05-01-362. THIS INCLUDES THAT DESIGNATION OF THE ADDRESS SHALL BE INCORPORATED IN ALL MONUMENTAL OR SITE SIGNS.
- FIRE DEPARTMENT AND EMERGENCY RESPONSE ACCESS ROADS SHALL BE ACCESSIBLE DURING ALL TYPES OF WEATHER AND AT ALL TIMES.
- FIRE DEPARTMENT AND EMERGENCY RESPONSE ACCESS ROADS SHALL HAVE AN UNOBSTRUCTED WIDTH OF 20 FEET.
- FIRE DEPARTMENT AND EMERGENCY RESPONSE ACCESS ROADS SHALL HAVE AN UNOBSTRUCTED VERTICAL CLEARANCE OF NOT LESS THAN 13'-6".
- FIRE DEPARTMENT AND EMERGENCY RESPONSE ACCESS ROADS SHALL BE DESIGNED AND MAINTAINED TO SUPPORT THE IMPOSED LOADS OF FIRE APPARATUS AND SHALL BE PROVIDED WITH A DURABLE ALL-WEATHER DRIVING SURFACE.
- EACH COMMERCIAL BUILDING SHALL HAVE AN ACCESS BOX (KNOX BOX) FOR FIRE DEPARTMENT USE AT THE MAIN ENTRANCE.

REFERENCES

- EXISTING TOPOGRAPHY PROVIDED BY CME ENGINEERING, DATED FEBRUARY 8, 2021.
- BOUNDARY SURVEY INFORMATION PREPARED BY EXACTA LAND SURVEYORS DATED MARCH 22, 2019.
- SURROUNDING PARCEL BOUNDARY INFORMATION OBTAINED FROM FREDERICK COUNTY GIS.
- WETLAND AND STREAM DELINEATION PREPARED BY ENVIRONMENTAL SYSTEMS ANALYSIS, INC. DATED FEBRUARY 12, 2019.
- FLOOD HAZARD AREAS AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP (FIRM) NO. 24021C0450, EFFECTIVE SEPTEMBER 19, 2007.

LEGEND

- EXISTING 10' CONTOUR (SEE REFERENCE 1)
- EXISTING 2' CONTOUR
- APPROXIMATE ADJACENT PARCEL BOUNDARY (SEE REFERENCE 3)
- APPROXIMATE STREAM LOCATION (CENTERLINE) (SEE REFERENCE 4)
- 100' STREAM BUFFER
- EXISTING CATTLE FENCE
- FLOOD HAZARD AREA ZONE A (SEE REFERENCE 5)
- APPROXIMATE WETLANDS (SEE REFERENCE 4)
- 25' WETLANDS BUFFER
- COMPOSTING SETBACK
- PROPERTY SETBACKS
- EXISTING TREE LINE (SEE REFERENCE 1)
- PROPOSED LANDSCAPE BUFFER (BY ECS MID-ATLANTIC LLC)
- PROPOSED FRO EASEMENT (BY ECS MID-ATLANTIC LLC)
- APPROVED RIPARIAN BUFFER PLANTING BY STREAMLINK

OWNER/APPLICANT INFORMATION

APPLICANT: UTICA BRIDGE FARMS, LLC
ADDRESS: 7245 LAKEVIEW ROAD, FREDERICK, MD 21701
MAILING ADDRESS: 10616 OLD FREDERICK ROAD, THURMONT, MD 21788
OWNER TELEPHONE NO.: (818) 762-4771
OPERATOR: KEY CITY COMPOST
ADDRESS: 7245 LAKEVIEW ROAD, FREDERICK, MD 21701
OPERATOR TELEPHONE NO.: (802) 277-0401

GENERAL NOTES

- PROPOSED USE: KEY CITY COMPOST WILL DEVELOP A LIMITED FOOD WASTE COMPOSTING FACILITY OPERATING AS A COMMERCIAL ACTIVITY. A PERMITTED USE SUBJECT TO SITE DEVELOPMENT PLAN APPROVAL IN THE FREDERICK COUNTY CODE OF ORDINANCES. THE FACILITY IS PERMITTED WITH THE MARYLAND DEPARTMENT OF THE ENVIRONMENT AS A "TIER 2 SMALL" COMPOST FACILITY WHICH CAN PRODUCE UP TO 10,000 CUBIC YARDS PER YEAR OF COMPOST.
- THE PROPERTY IS LOCATED AT 7245 LAKEVIEW ROAD, THURMONT, MARYLAND 21778
- LIBER 15016 / FOLIO 00491
- THE PROPERTY IS LOCATED WITHIN THE AGRICULTURE (A) ZONING DISTRICT
- THE PROPERTY IS IDENTIFIED AS AGRICULTURAL / RURAL IN THE COMPREHENSIVE PLAN
- THE PROPERTY IS WITHIN THE MOUNTAINDALE PLANNING REGION
- THERE IS NO PLANNED SERVICE IN THE FREDERICK COUNTY WATER AND SEWER PLAN
- THE PROPERTY LIES WITHIN ZONE X OF THE FLOOD INSURANCE RATE MAP NO. 24021C0450 PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), EFFECTIVE SEPTEMBER 19, 2007.
- THERE IS ONE EMERGENT WETLAND LOCATED ALONG THE SOUTHERN BOUNDARY OF THE PROPERTY, IDENTIFIED IN A FEBRUARY 12, 2019 REPORT BY ENVIRONMENTAL SYSTEMS ANALYSIS, INC.
- SOIL TYPES WITHIN THE PROPERTY ARE:
CRB - CROTON-ABOYSTOWN SILT LOAMS, 3 TO 8 PERCENT SLOPES
PNB - PENN SILT LOAM, 3 TO 8 PERCENT SLOPES
PEB - PENN CHANNERY LOAM, 3 TO 8 PERCENT SLOPES
RGA - READINGTON SILT LOAM, 0 TO 3 PERCENT SLOPES
- LOT DIMENSIONS
REQUIRED LOT AREA: 5 ACRES
PROPOSED LOT AREA: 29 ACRES
LOT WIDTH: 300 FEET
LOT DEPTH: 1,550 FEET
- AREA SUMMARY
PROPERTY: 29.0± ACRES
COMPOST OPERATIONS AREA: 6.2± ACRES
- SETBACKS
FRONT YARD: 40 FEET
SIDE YARD: 50 FEET
REAR YARD: 50 FEET
- HOURS OF OPERATION: 7:00 AM - 6:00 PM MONDAY - SATURDAY
OPERATIONS MAY LIMIT THESE HOURS BASED ON THROUGHPUT OF THE COMPOST PROCESS OR DURING PERIODS OF SHORT DAYLIGHT HOURS.
- BUILDING HEIGHT
MAXIMUM HEIGHT: 30 FEET
PROPOSED OFFICE: 13.5 FEET (ONE-STORY)
PROPOSED POLE BARN: 24 FEET (TO RIDGE OF ROOF)
GROSS FLOOR AREA: 2,120 SQUARE FEET
- THIS DEVELOPMENT IS PROJECTED TO GENERATE BETWEEN 6 AND 50 GROSS FLOOR AREA = 2,120 SQUARE FEET TOTAL VEHICLE TRIPS DURING THE HIGHEST DAILY PEAK HOUR OF THE ADJACENT STREET TRAFFIC, AND IS THEREFORE EXEMPT FROM APFO ROADS TESTING (\$1-20-12(H)) AS OUTLINED IN THE ATTACHED LETTER OF UNDERSTANDING (LOU). THE DEVELOPMENT IS PROJECTED TO GENERATED 18 AM AND 18 PM WEEKDAY PEAK HOUR TRIPS.
EXPECTED VEHICULAR TRIPS
WEEKDAY AM PEAK: 18 TOTAL TRIPS
WEEKDAY PM PEAK: 18 TOTAL TRIPS
- THE MAXIMUM NUMBER OF EMPLOYEES IS 13.
- THE MAXIMUM NUMBER OF BUSINESS VEHICLES STORED ON SITE IS 9.
- PARKING AS REQUIRED BY 1-19-6.220.A.4 FOR ALL INDUSTRIAL USE AND SOLID WASTE OPERATION REQUIRED PARKING: 13 EMPLOYEES/24 9 VEHICLES = 16 SPACES
PARKING PROVIDED: 17 SPACES AND 1 HANDICAP SPACE, 23 TOTAL
- LOADING
REQUIRED: 1 SMALL LOADING SPACE FOR TOTAL BUILDING FLOOR AREA OVER 1,000 SF AND LESS THAN 5,000 SF.
PROVIDED: 1 LARGE LOADING SPACE, 12 FEET BY 50 FEET.
- NO BICYCLE PARKING IS REQUIRED.
- IMPERVIOUS SURFACE
EXISTING: 5,800 SF (0.4%)
PROPOSED: 267,900 SF (21.2%)
TOTAL: 273,700 SF (21.6%)
- ALL LANDSCAPING SHALL BE MAINTAINED IN A LIVING CONDITION.
- STORMWATER MANAGEMENT WILL BE PROVIDED IN ACCORDANCE WITH MARYLAND'S STORMWATER MANAGEMENT ACT OF 2007.
- A COMBINED PRELIMINARY/FINAL FOREST CONSERVATION PLAN HAS BEEN SUBMITTED UNDER AP 19896. FRO MITIGATION IS PROPOSED TO BE PROVIDED BY ON-SITE AFFORESTATION PLANTING AND LANDSCAPE CREDIT. FRO MITIGATION PROVIDED PRIOR TO APPLYING FOR GRADING OR BUILDING PERMITS, AND PRIOR TO ANY EARTH DISTURBANCE.
- THE OWNER/DEVELOPER SHALL SCHEDULE AND HOLD A PRE-CONSTRUCTION MEETING WITH THE ENVIRONMENTAL COMPLIANCE SECTION OF THE DIVISION OF PLANNING AND PERMITTING PRIOR TO ANY EARTH OR SITE DISTURBANCE.
- SIGNAGE AS REQUIRED BY 1-19-6.320 FOR BUSINESS IDENTIFICATION WITHIN THE FC OR A DISTRICTS
MAXIMUM SIZE: 25 SQUARE FEET, 15 FEET HIGH
PROPOSED SIZE: 24 SQUARE FEET, 8 FEET HIGH
- THE SITE WILL NOT HAVE ANY POLE MOUNTED FIXTURES AND WILL SUPPLY ONE (1) WALL PACK FIXTURE MOUNTED ABOVE THE DOOR TO THE TRAILER FOR SAFETY PURPOSES. ALL LIGHTING WILL BE DOWNWARD FACING TO PREVENT GLARE AND LIGHT TRASPASS TO ADJACENT PROPERTIES.
- EXISTING WELL WILL BE CONVERTED TO COMMERCIAL USE PRIOR TO COMPOST OPERATIONS.
- TRASH WILL BE DISPOSED IN A DUMPSTER LOCATED WITHIN THE TRASH ENCLOSURE AND COLLECTED BY A PRIVATE HAULER.
- MODIFICATION REQUEST:
A. THE APPLICANT REQUESTS A VARIANCE FROM 1-19-6.210 TO ALLOW A LARGE LOADING SPACE. THE APPLICANT MAY RECEIVE PROCESS MATERIALS OR EQUIPMENT ON TRANSFER TRAILERS AND A LARGE LOADING SPACE WILL ALLOW THESE VEHICLES TO UNLOAD AND WOULD BE MORE ADEQUATE FOR THE PROPOSED USE THAN A SMALL LOADING SPACE.
B. THE APPLICANT REQUESTS A VARIANCE FROM 1-19-6.220.A TO ALLOW 23 TOTAL PARKING SPACES. THE SITE WILL EMPLOY 12 FULL-TIME AND 1 PART-TIME PERSONNEL AND WILL MAINTAIN 9 COMPANY OWNED VEHICLES ON-SITE. THE PROPOSED PARKING SPACES WILL ALLOW ALL 13 EMPLOYEES AND 9 COMPANY VEHICLES TO BE PARKED WHILE MAINTAINING ONE (1) ADDITIONAL PARKING SPACE FOR VISITORS OR ACCESSIBLE PARKING.
C. THE APPLICANT REQUESTS A VARIANCE FROM 1-19-6.220.B TO ALLOW AN INCREASE IN STALL DIMENSIONS FOR FIVE (5) PARKING SPACES. THESE SPACES PROPOSED WILL ALLOW SINGLE AXLE TRUCKS (LESS THAN 26,000 GROSS VEHICLE WEIGHT) TO PARK WITHOUT BLOCKING AISLES.

PREPARED FOR:

PREPARED BY: NC LIC. NO. F-1370 (ENGINEERING)
SC COA NO. C01488

**SMITH+
GARDNER**
ENGINEERS

14 N. Boylan Avenue, Raleigh NC 27603 | 919.828.0577
1526 Richland St., Columbia SC 29201

SEAL

2/28/2022

PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND.

REV.	DATE	DESCRIPTION
1	3/8/21	REVISIONS TO FC COMMENTS PREVIOUS SUBMITAL BY LINGS PROPERTY CONSULTING.
2	9/23/21	RESPONSE TO FC COMMENTS DATED MARCH 23, 2021
3	11/23/21	RESPONSE TO FC COMMENTS DATED OCTOBER 18, 2021
4	12/8/21	RESPONSE TO COMMENTS DATED DEC. 3, 2021
5	1/27/22	FCPC CONDITIONS OF APPROVAL DATED JAN. 14, 2022

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PROJECT TITLE:

KEY CITY COMPOST AT
UTICA BRIDGE FARMS

SITUATED AT 7245 LAKEVIEW ROAD

FREDERICK COUNTY COUNCIL
ELECTION DISTRICT NO. 5

FREDERICK COUNTY, MARYLAND

DRAWING TITLE:

TYPE I SITE PLAN
SITE OVERALL
SP 19894
APFO 19095
FRO 19896

DESIGNED: J.R.F.	PROJECT NO: KEYCITY-21-1
DRAWN: C.T.J.	SCALE: AS SHOWN
APPROVED: [Signature]	DATE: MARCH 2021

FILENAME: KEYCITY-D0001	DRAWING NUMBER: SP1
SHEET NUMBER: 1	

FILE #: SP19-17
A/P #: 19894
DUE DATE:

PERMIT ISSUE
NOT FOR CONSTRUCTION

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MARYLAND DEPARTMENT OF THE ENVIRONMENT



Larry Hogan
Governor

Land and Materials Administration • Resource Management Program
1800 Washington Boulevard • Suite 610 • Baltimore, Maryland 21230-1719
410-537-3314 • 800-633-6101 x3314 • www.mde.maryland.gov



Maryland
Department of
the Environment

General Composting Facility Registration Registration Number: 2021-GCF-0023

EFFECTIVE DATE: April 28, 2021

EXPIRATION DATE: March 27, 2026

Issued to: Resolution Solutions, LLC

Authorizing: Coverage under the General Composting Facility Permit (GP-CF01), which is issued in accordance with February 1, 2021 Notice of Intent for General Composting Facility Permit and November 30, 2020 Composting Facility Operations Plan.

At: Key City Compost at Utica Bridge Farm Composting Facility located at 10661 Stull Road in Thurmont, Frederick County, Maryland 21788.

This permit is issued pursuant to the provisions of Title 9 of the Environment Article, Annotated Code of Maryland, and regulations promulgated thereunder, and is subject to the attached terms and conditions, and compliance with all applicable laws and regulations.

A handwritten signature in black ink, appearing to read "Kaley Laleker".

Kaley Laleker, Director
Land and Materials Administration



Casey L. Cirner
(301) 517-4817
ccirner@milesstockbridge.com

Scott C. Wallace
(301) 517-4813
swallace@milesstockbridge.com

April 18, 2025

VIA ELECTRONIC MAIL
(Mpaone@frederickcountymd.gov)

Shannon Bohrer, Chair
And Members of the Frederick County
Board of Appeals
30 N. Market Street
Frederick, MD 21701

Re: Appeal B277447
Site Development Plan SP 19-17 (AP SP277005 APFO277003) ("Site Plan")
Compost Crew at Utica Bridge Farms

Dear Chair Bohrer and Members of the Board:

We represent Compost Crew, Inc., a public benefit corporation ("Compost Crew") and the Applicant of the Site Plan for a limited food-waste composting (commercial activity) in the A District at 7245 Lakeview Road in Frederick (the "Property") approved by the Frederick County Planning Commission ("Planning Commission") on January 12, 2022, and reapproved on February 12, 2025.¹ On behalf of Compost Crew, we are writing to enter our appearance in the above-captioned matter and to respectfully request that the Frederick County Board of Appeals (the "Board") hear this appeal of the Planning Commission's February 12, 2025, decision to approve the Site Plan on the administrative record compiled before the Planning Commission.² Compost Crew's request that this Board deny the appeal and affirm the Planning Commission's decision on the Site Plan and its responses to the allegations in Appellants' March 14, 2025 letter to this Board ("Appellants' Letter") are forthcoming.

¹ The Property has a mailing address of 10661 Stull Road, Thurmont, Maryland 21788, which is associated with the GCF Permit (defined herein).

² To the extent necessary, the Compost Crew requests that this Board consider this letter as a motion to intervene in the above-captioned matter as the applicant of the approved site development plan that is being challenged by this appeal.

However, on April 24, 2025, this Board will determine the applicable standard of review for this appeal. The Appellants request that this Board hear their appeal *de novo*, which would mean starting the process of review over from the beginning. That request is an improper attempt to introduce evidence that the Appellants could have introduced at the Planning Commission's February 12th public hearing but did not for reasons unknown to Compost Crew. In other words, they are asking for a "third bite of the apple," which is not justified in this case.³ For this and the reasons articulated below, the appropriate standard of review for this appeal is an on the record review applying the substantial evidence test that gives the appropriate deference to the Planning Commission's decision:

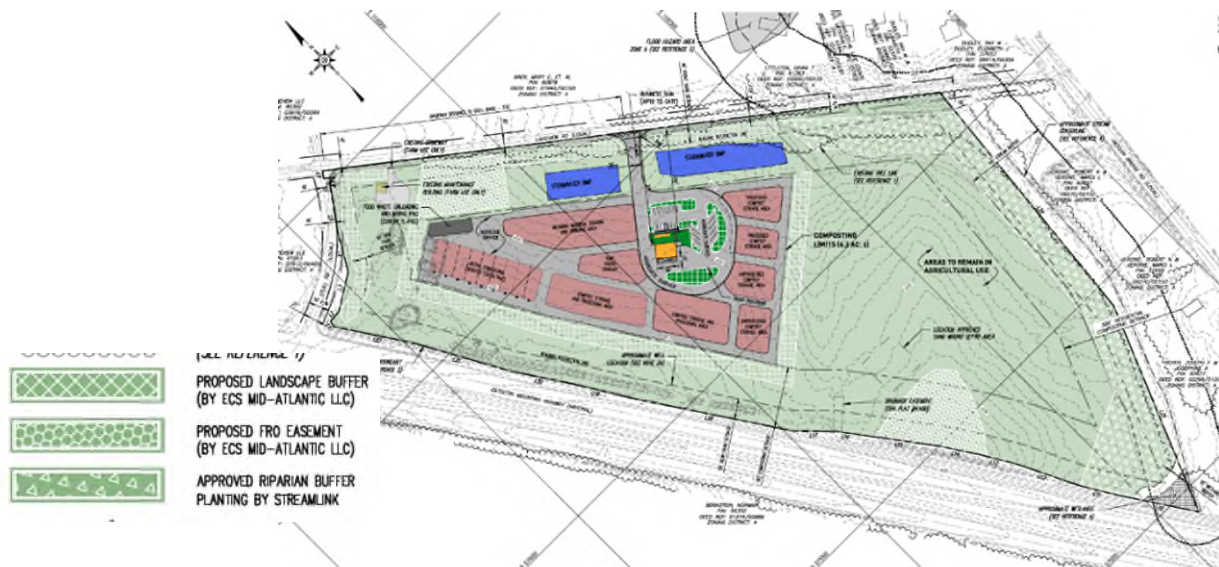
I. Project Background

On January 12, 2022, the Planning Commission approved, with conditions, the Site Plan and 3 modifications to establish a limited food-waste composting use (commercial activity) approximately 5.95 acres in size, plus access, within the Property, which is a 29-acre farm within the A District.⁴ The Property is trapezoidal in shape, bound by public roads on 3 sides – Stull Road (west), Lakeview Road (north) and Maryland Route 15 (south) – and abuts land in the A District to the east improved with 3 homes that front on and have access to Hessong Bridge Road. Since 2020, composting has been conducted on the western portion of the Property.

The approved Site Plan proposes a new Lakeview Road access, a pole barn, office, 23 parking spaces, to include 1 ADA parking space, and composting pads within the interior of the Property. The composting operations will be screened by layers of landscaping and agricultural activities, including a 35-foot-wide landscaping strip on all 4 sides of the composting operations. An additional landscape strip is proposed at and along the Stull Road frontage. Trees are located within a Forest Resource Ordinance easement on Lakeview Road, along with 1,200 trees that have been planted to reestablish the riparian buffer along part of Lakeview Road and the southern Property boundary. The remainder of the Property will remain in agricultural use as a demonstration farm applying composting best practices, all as depicted here:

³ See Section 4 below.

⁴ The requested and approved parking modifications stated: "1. The Applicant requests a variance from 1-19-6.210 to allow one (1) large loading space. Due to the nature of operations, process material and equipment may arrive on transfer trailers, which require larger unloading space than standard small loading areas. 2. The Applicant requests a variance from 1-19-6.220.A to allow 23 total parking spaces. The site will employ 12 full-time and 1 part-time personnel in addition to staging 9 company owned vehicles on-site. The proposed parking spaces will allow all 13 employees and 9 company vehicles to be parking while providing 1 additional space for visitors or accessible parking. 3. The Applicant requests a variance from 1-19-6.220.B to allow an increase in the stall dimensions for 5 parking spacing [sic]. These spaces will accommodate single-axled trucks (under 26,000 gross vehicle weight) without obstructing aisle access." In summary, the parking modifications replace the required small loading spaces with larger loading spaces to accommodate the truck sizes inherent to the composting operations, add 7 parking spaces to the 16 required parking spaces to provide parking for all the employees, which are not shift workers, and the 9 trucks to be parking on-site, and extend certain parking space lengths to avoid trucks overhanging into the drive aisle.



The approved Site Plan is a multi-million-dollar composting project to divert food scraps from the landfill for composting into a nutrient rich soil amendment for use by farmers, landscapers and residents and will supplement the existing fertilizer shortage. The Site Plan was originally captioned as Key City Compost at Utica Bridge Farms and was approved by the Planning Commission on January 12, 2022. Appellants and their counsel participated virtually and by telephone at the January 12th public hearing, cross-examining Planning Commission staff, with the applicant and property owner (Utica Bridge Farms LLC and Key City Compost) and its consultants providing direct testimony.⁵ The Planning Commission, having 6 members at the time with 2 necessarily absent, unanimously approved the Site Plan in a 4-0-0-2 vote with conditions.⁶ No appeal was taken from the Planning Commission decision.

The Site Plan was not vested before the expiration of its 3-year validity period because the improvements to Stull and Lakeview Roads required prior to building permit issuance were not completed due to lack of funding. In June 2024, prior to the expiration of the Site Plan and adequate public facilities ordinance (“APFO”) approval, Compost Crew acquired Key City Compost and related entities. In the absence of an available process to extend a site plan and

⁵ The Appellants are identified in the March 14, 2025, letter submitted in the above-captioned matter by The Law Office of Michele Rosenfeld, LLC as John and Aime St. Angelo; Zachary Matter and Victoria St. Angelo, Luke and Valerie Myers; Nicholas and Shannon St. Angelo; Christopher and Ashley St. Angelo. Those that participated in the January 12, 2022, Planning Commission public hearing are underlined. At that hearing Ms. Rosenfeld represented John and Aime St. Angelo and testified on their behalf.

⁶ On January 12, 2022, the Planning Commission was comprised of Chair Sam Tressler III, Vice-Chair Craig Hicks, Joel Rensberger, Secretary Carole Sepe, Michael Sowell and Terry Bowie. Mr. Bowie and Mr. Rensberger necessarily absent. The condition incorporates the applicant’s proffer to limit the use of the grinder during the composting process to certain times during the day and was made in response to the Appellants’ testimony.

APFO validity period, Compost Crew filed an application with the Planning Commission for reapproval of the Site Plan, 3 modifications and APFO approval.

As articulated in the Planning Commission's February 12, 2025, staff report, the Site Plan included the same 3 modification requests. No substantive changes were proposed. Only minor (ministerial) changes were made to the Site Plan to update the: (a) Site Plan name from Key City Compost at Utica Farms to Compost Crew at Utica Bridge Farms; (b) file numbers from AP-19894 and APFO-19895 to AP SP277005 and APFO A277003; (c) Site Plan General Note 1 to reference the Site Plan reapproval; (d) date, title and Compost Crew signatories for the APFO Letter of Understanding; and (e) applicant name from Utica Bridge Farms LLC to Compost Crew.

Appellants participated in person at the Planning Commission's February 12, 2025, public hearing on the Site Plan reapproval.⁷ The Planning Commission, having 7 members with 2 necessarily absent, approved the Site Plan subject to conditions, the 3 modifications and APFO in a 3-2-0-2 vote.⁸ Appellants filed an appeal of the Planning Commission's February 12th reapproval of the Site Plan.

A. The Appropriate Standard of Review of this Appeal is on the Record.

The law and facts and circumstances surrounding this Site Plan dictate that the appeal should be heard on the record with this Board giving deference to the Planning Commission's decision. For the following reasons, the substantial evidence test is the appropriate legal standard of review to apply to this appeal:

1. A De Novo Hearing is not Required.

This Board is not bound by State statute, charter, code or its rules of procedure to conduct a *de novo* hearing of this appeal. *See*, § 10-305(b), Local Gov. Art., Md. Ann. Code (the Express Powers Acts allows a county board of appeals to have original jurisdiction or jurisdiction to review the action of the Planning Commission); *Boehm v. Anne Arundel County*, 54 Md. App. 497, 507 (1983) (a purely *de novo* hearing was required on appeal because the Anne Arundel County charter expressly required the Board of Appeals to apply that standard of review). Rather, § 1-19-3.230(A) of the of the Frederick County Code ("FCC") supports a record review of the Planning Commission's decision because it requires that the Planning Commission's record, upon which it

⁷ The Appellants are identified in the March 14, 2025 letter submitted in the above-captioned matter by The Law Office of Michele Rosenfeld, LLC as John and Aime St. Angelo; Zachary Matter and Victoria St. Angelo, Luke and Valerie Myers; Nicholas and Shannon St. Angelo; Christopher and Ashley St. Angelo. Those that participated in the February 12, 2025, Planning Commission public hearing are underlined. At that hearing Ms. Rosenfeld represented John and Aime St. Angelo and testified on their behalf.

⁸ On February 12, 2025, the Planning Commission was comprised of Chair Tim Davis, Vice-Chair Mark Long, Secretary Carole Sepe, Joel Rensberger, Craig Hicks, Sam Tressler III, and Barbara Niklas. Craig Hicks and Carole Sepe necessarily absent.

rendered its decision, be transmitted to the Board. Section 1-19-3.230(D) of the FCC gives this Board authority to reverse, affirm, or amend the Planning Commission's decision on appeal, indicating that the Board may review and give deference to the Planning Commission's decision. Accordingly, Compost Crew urges this Board to review this appeal on the Planning Commission's record.

2. *A Third De Novo Hearing on the Site Plan is Unwarranted.*

The Planning Commission has already held 2 *de novo* hearings on the Site Plan. The Appellants participated in both public hearings, individually and through counsel, and therefore, a third *de novo* hearing is unwarranted and prejudicial to Compost Crew. This fact alone supports an on the record review of this appeal.

The Planning Commission held a *de novo* public hearing on the Site Plan on January 12, 2022, and February 12, 2025. Each public hearing lasted at least 2 hours. The Site Plan reviewed by the Planning Commission at both public hearings was identical, except for the nominal updates listed above. The 3 requested modifications approved at both public hearings were identical and the APFO approval was identical at both public hearings. Ultimately, the Planning Commission rendered the identical decision at both public hearings, which was to approve the Site Plan.

The Appellants participated, individually and through counsel, at both public hearings, were extended certain courtesies at both hearings, presented testimony at both public hearings, had the opportunity to present evidence and cross-examine Planning Commission staff, the Compost Crew and its witnesses at both public hearings, although cross-examination was only conducted at the January 12, 2022 public hearing.⁹ The extent of time, resources and deliberations undertaken by the Planning Commission in rendering its decision to approve the Site Plan on two separate occasions and the level of participation and opportunities afforded to Appellants at the Planning Commission's public hearings negates the need for this Board to give the Appellants a third opportunity to present "new" evidence at a public hearing on the identical Site Plan.

3. *The Planning Commission's Form of Decision does not Trigger a De Novo Hearing.*

Contrary to Appellants' argument, the Planning Commission's oral decision to approve the Site Plan at the February 12th public hearing, which included and incorporated findings of fact and conclusions of law, does not trigger a purely *de novo* hearing on this appeal. Appellants' argument improperly applies a judicial review standard to an administrative entity that is reviewing the decision of another administrative entity on appeal. Unlike this Board, there is no statutory

⁹ See Footnote 4 for those who participated in person and through counsel at the January 12, 2022, public hearing. Per the Planning Commission Meeting Minutes for January 12, 2022, the order of the Planning Commission January 12th agenda was altered to accommodate Ms. Rosenfeld's schedule in order to facilitate her participation in the public hearing. At the February 12, 2025, public hearing, Ms. Rosenfeld was provided 6 minutes of testimony, 3 minutes for each of her 2 clients (John and Aime St. Angelo).

requirement for the Planning Commission to issue written decisions. See, § 10-305(c), Local Gov. Art., Md. Ann. Code; Board Bylaws, Section V.I; Rules of Frederick County Planning Commission, Section 8.2. This is consistent with the view held by Maryland courts that when there are 2 administrative entities from a county participating in the decision, the courts will review the decision from the second entity, i.e., the final one. *Department of Health and Mental Hygiene v. Shrieves*, 100 Md. App. 283, 302 (1994) (the Court reviewed the agency's decision that occurred subsequent to the administrative law judge's hearing). Thus, this Board is tasked with articulating its decision for the court's review. As a practical matter, the Planning Commission need not issue a written decision because its decision, with findings of facts and conclusions of law, which were based on the application, the staff report, and evidence presented at the public hearing, is memorialized in the February 12th public hearing video readily available amongst the County's administrative entities and to the public.

4. *Appellants should not get a Third Bite at the Apple.*

Appellants' request for a *de novo* hearing is clearly an inappropriate attempt to reargue their position from the February 12, 2025, public hearing before the Planning Commission. Appellants attach to or include within their March 14, 2025, letter to this Board exhibits and links to internet articles that are public records that were available to Appellants prior to the February 12th Planning Commission public hearing.

The Appellants failed to submit five of the eight exhibits attached to Appellants' Letter (Exhibits 2, 3, 4, 5 and 6) to the Planning Commission at or before its February 12th public hearing. Exhibit 2 is a copy of the tax map that includes the Property. Exhibits 3-5 relate to the General Composting Facility Permit issued by the Maryland Department of Environment for composting at the Property ("GCF Permit"). Exhibit 6 includes letters dated June and July 2024 from the Frederick County Rustic Roads Commission on the Hessong Road Bridge improvements. The two internet articles on composting in footnotes 4 and 5 were authored prior to February 12, 2025, one having a 1996 copyright date and the other being almost 10 years old.

It is not the substance of these Exhibits or articles that concern Compost Crew. It is the Appellants' blatant attempt to circumvent the Planning Commission's authority to approve site plans by submitting evidence to this Board that they had available but failed to submit to the Planning Commission. In fact, Appellants submit Exhibits 3-5 to support their erroneous assertion that Compost Crew cannot operate under the GCF Permit. However, Compost Crew acquired 100% of the equity of the MDE permit holder, Resolution Solutions, LLC. Therefore, in accordance with Paragraph C on the last page of Exhibit 5, that corporate acquisition negates the need to transfer the MDE permit.

Appellants alleged at the February 12th Planning Commission public hearing that Stull Road and Lakeview Road are rural roads but did not submit Exhibit 6 into the record or request the Planning Commission take "administrative notice" thereof. Regardless, Stull Road is not a rustic road. Rustic Roads are designated by the Frederick County Council. Stull Road is on the list of candidate roads that may be considered in the future for designation by the County Council

as Rustic Roads, but it is not a Rustic Road. And Lakeview Road is not a rustic road or even a candidate road. In addition, the Rustic Roads Commission has authority to remove any road from the candidate list. A *de novo* hearing on the appeal is fundamentally unfair to Compost Crew because it enables the Appellants to submit evidence that it could have but did not submit into the Planning Commission's record.

5. *The Planning Commission Approved the Site Plan Twice.*

Appellants allege that the Planning Commission's application of the doctrine of impermissible change of mind resulted in its approval of the Site Plan on February 12, 2025. The Compost Crew believes that the doctrine of impermissible change of mind was applicable to the Planning Commission's February 12th decision on the Site Plan application and that there is no "new" evidence preventing its application thereto. However, the Planning Commission did not seem to apply the doctrine. Rather, the Planning Commission carefully considered the substance of the application, testimony presented and applicable law before it and decided to approve the Site Plan again. That is evidenced by the Planning Commission's vote to approve the Site Plan, which was a vote of 3-2-0-2, where one of the members who voted to approve the Site Plan on January 12, 2022, voted to deny the Site Plan on February 12, 2025. Therefore, Appellants' argument that the doctrine of impermissible change of mind requires a *de novo* hearing of this appeal is misplaced.

B. Appellants are Collaterally Estopped from Challenging Certain Aspects of the Planning Board's Decision.

Setting aside Appellants' request for a *de novo* hearing, Appellants are collaterally estopped from asserting that there is a lack of affirmative evidence to satisfy §§ 1-19-8.408(D), (G), (J) and (K) of the FCC in Paragraphs 1 - 4 of Appellants' Letter because these issues were finally decided by the Planning Commission on January 12, 2022. Collateral estoppel prevents a party from relitigating an issue that was previously decided in a dispute involving the same parties. *Garrity v. Maryland State Bd. Of Plumbing*, 447 Md. 359, 369 (2016). The supporting judicial policy is "...that a losing litigant deserves no rematch after a defeat fairly suffered, in adversarial proceedings, on an issue identical in substance to the one he subsequently seeks to raise." *Department of Human Resources v. Thompson*, 103 Md. App. 175, 194 (1995). Collateral estoppel is traditionally applied when the following 4-prong test is met:

1. Was the issue decided in the prior adjudication identical with the one presented in the action in question?
2. Was there a final judgment on the merits?
3. Was the party against whom the plea is asserted a party or in privity with a party to the prior adjudication?

4. Was the party against whom the plea is asserted given a fair opportunity to be heard on the issue?

Garrity, 447 Md. at 369.

The first prong of the collateral estoppel test is met if the issue in the first proceeding is “identical” to the issue in the second or third proceeding. *Batson v. Shiflett*, 325 Md. 684, 706 (1992) (“[u]nder [] Maryland law, the principle of collateral estoppel should only be applied where the *identical* issue sought to be relitigated was actually determined in the earlier proceeding”) (emphasis added). Appellants argued at the first Planning Commission proceeding held on January 12, 2022, that the Site Plan application lacked affirmative evidence from the applicant to support a determination that it will meet §§ 1-19-8.408(D), (G), (J) and (K) of the FCC.¹⁰ Specifically, Appellants argued that the notes on the Site Plan attesting compliance with §§ 1-19-8.408(D), (J) and (K) of the FCC were inadequate and that affirmative evidence demonstrating compliance therewith was necessary. Appellants also argued that Compost Crew did not provide evidence to satisfy § 1-19-8.408(G) of the FCC related to vehicle circulation. In response thereto, Planning Commission staff stated and restated that it is typical that site plan applicants commit to compliance with various zoning requirements through site plan notes where compliance cannot be demonstrated on the site plan. *See*, Composting Notes, Site Plan, Sheet SP2. Staff further advised that following construction and/or implementation of the site plan approved use, if the zoning requirements are not met, it becomes a County enforcement action, potentially prompting an investigation, mitigation of any alleged zoning violation and/or an enforcement action. Staff also testified that the vehicle circulation proposed by the Site Plan met § 1-19-8.408(G) of the FCC. The Planning Commission accepted its staff’s response and approved the Site Plan. No appeal of that Planning Commission decision ensued, rendering its decision final. Appellants appear not to have raised these arguments at the February 12, 2025, public hearing.

Appellants raise the same exact arguments in Appellants’ Letter. However, no “new” evidence set forth in Appellants’ Letter changes the fact that §§ 1-19-8.408(D), (J) and (K) of the FCC must be met through notes on the site plan. Here, the requirements are met through the Composting Notes on the Site Plan that bind Compost Crew to compliance with §§ 1-19-8.408(D), (J) and (K) of the FCC. Moreover, there is no “new” evidence contradicting that the vehicular circulation proposed by the Site Plan satisfies § 1-19-8.408(G) of the FCC.

¹⁰ § 1-19-8.408(D) of the FCC states that “[l]imited food waste composting activities and operations shall not cause any odor, dust, smoke, vibration, or unreasonable noise which can be detected at or beyond any property line.” § 1-19-8.408(G) of the FCC states that “[t]he applicant shall submit a vehicle circulation plan indicating that adequate turn radius is provided both to and from the subject property. Adequate space for the safe movement of all proposed vehicles and equipment being utilized on site shall be provided.” § 1-19-8.408(J) of the FCC states that “[a]ll materials at the limited food waste composting facility shall be sorted and processed in a manner that prevents harboring or breeding of insects or animals, and prevents creation of odor, litter, or other nuisances that may be harmful to the public health or the environment.” § 1-19-8.408(K) “[a]ll incoming materials associated with food waste must be incorporated into the composting processes within 24 hours. Liquids must be controlled to prevent run off during offloading, storage, and processing of all received wastes.”

With regard to prong 2 of the collateral estoppel test, Maryland courts will “[] grant an agency decision preclusive effect for purposes of collateral estoppel upon satisfaction of the three-part test arising from *Exxon Corp. v. Fischer*, 807 F.2d 842, 845-46 (9th Cir. 1987), referred to as the Exxon Test.” *Garrity*, 447 Md. at 380. The Exxon Test is met when: “(a) the agency acted in a judicial capacity; (2) the issue presented to the fact finder in the second proceeding was fully litigated before the agency; and (3) resolution of the issue was necessary to the agency’s decision.” *Id.*, citing, *Batson*, 325 Md. at 701.

The Exxon Test is satisfied because the Planning Commission acted in a judicial capacity by holding a quasi-judicial public hearing on January 12, 2022, where it heard and received testimony and evidence from the parties and cross-examination was conducted. The issue of compliance with §§ 1-19-8.408(D), (G), (J) and (K) of the FCC was fully litigated. The Appellants’ counsel presented direct testimony on the issue and cross-examined Planning Commission staff on the issue. Planning Commission staff provided direct testimony on multiple occasions during the hearing to refute Appellants’ assertion. After given due consideration to the evidence of record, the Planning Commission approved the Site Plan and Appellants did not take an appeal of that decision. As a result, the Planning Commission’s decision is final. It was necessary to the Planning Commission’s decision to resolve the issue of Site Plan compliance with §§ 1-19-8.408(D), (G), (J) and (K) of the FCC because they are zoning requirements applicable to the Site Plan.

Prongs 3 and 4 of the collateral estoppel test are also met because the Appellants, against whom collateral estoppel is being asserted, participated in the January 12, 2022, public hearing. *Bank of New York Mellon v. Georg*, 456 Md. 616 (2017), citing *Mathews v. Cassidy Turley Md., Inc.*, 435 Md. 584, 628 (2013) (“[f]or purposes of collateral estoppel, an analysis of privity ‘focuses on whether the interests of the party against whom estoppel is sought were fully represented, with the same incentives, by another party in the prior matter’”). Appellants’ participation included direct testimony on their assertion that the Site Plan must demonstrate compliance with §§ 1-19-8.408(D), (J) and (K) of the FCC through affirmative evidence other than the Site Plan notes, that the Site Plan did not comply with the vehicle circulation requirements set forth in § 1-19-8.408(G) of the FCC, and an opportunity to cross-examine Planning Commission staff. They even participated in the February 12th public hearing. Accordingly, Appellants are collaterally estopped from arguing that the Site Plan approval was in error because it includes the Composting Notes committing Compost Crew to the continuing obligations to comply with §§ 1-19-8.408(D), (J) and (K) of the FCC and that the Site Plan lacks evidence to support compliance with § 1-19-8.408(G) of the FCC.

C. Conclusion

For the foregoing reasons, Compost Crew respectfully requests that this Board conduct an on the record review of this appeal. Compost Crew appreciates your consideration of this request to review the Planning Commission's decision on the record pursuant to the substantial evidence test. Should you need any additional information in support of this request, please do not hesitate to contact the undersigned.

Very Truly Yours,



Casey L. Cirner



Scott C. Wallace

cc: Ben Parry, CEO, Compost Crew, Inc.
Kristie Blumer, Senior Director, Composting, Compost Crew, Inc.
Michele Rosenfeld, Esquire, Attorney for Appellants
Tolson DeSa, Zoning Administrator
Michael Paone, Zoning Planner 1
Katrina Anderson, Administrative Specialist
Thomas P. Sinton, Assistant County Attorney
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April 24, 2025

Shannon Bohrer, Chair
And Members of the Frederick County
Board of Appeals
30 N. Market Street
Frederick, MD 21701

Re: Appeal B277447 - Site Development Plan SP 19-17 (AP SP277005 APFO277003) ("Site Plan")
Compost Crew at Utica Bridge Farms
Response to Appellants' April 21, 2025, 4:49 p.m. Filing ("Appellants' Letter")

Dear Chair Bohrer and Members of the Board:

Compost Crew, Inc., a Benefit Corporation ("Compost Crew") asserts that the erroneous allegations set forth in Appellants' Letter do not warrant a *de novo* hearing because:

- **The Planning Commission correctly interpreted the scope of its statutory authority in approving the Site Plan.**
- **Compost Crew did not make misrepresentations or mislead the Planning Commission at its February 12, 2025, public hearing ("2025 Hearing").**
 - Maryland Department of Environment ("MDE") has oversight of the environmental concerns raised by Appellants through the composting permits, including approved Composting Facility Permit (2021-CGF-0023) "CF Permit."
 - The CF Permit approves the tonnage of feedstock (e.g. food scraps) to be received and the amount of compost to be generated onsite and remains valid because Key City Compost is a trade name for Resolution Solutions, LLC, which was acquired by Compost Crew.
 - Kristie Blumer, Senior Director, Composting, Compost Crew testified at the 2025 Hearing that Compost Crew "...would need from [MDE] multiple pieces of permits and preapprovals for the site to make sure that we are operating safely for everyone" See, 2025 Hearing video at 6:28:40 https://frederick.granicus.com/MediaPlayer.php?view_id=10&clip_id=10185
 - This includes updating the CF Permit and the associated Composting Facilities Operations Plan with the Site Plan.
 - Compost Crew engaged directly with MDE following receipt of the October 4, 2024, inspection report because MDE had not previously requested an industrial stormwater permit for on-farm composting on this site. Ultimately, on April 9, 2025, Compost Crew received MDE approval of the Industrial Stormwater Permit (20SW3922) that was filed on March 12, 2025. This permit application was pending with MDE during its March 18, 2025, inspection, as referenced in attachment 3 (p. 1) to Appellants' Letter.
- **Appellants' Letter asserts no new evidence.**
 - Appellants were aware of MDE's oversight of composting activities as of the January 12, 2022, Planning Commission public hearing and again, failed to submit any related information at the 2025 Hearing. See, 2022 Public Hearing Video at 5:04:21 at

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Shannon Bohrer, Chair
And Members of the Frederick Co. Board of Appeals
April 24, 2025
Page 2



https://frederick.granicus.com/MediaPlayer.php?view_id=10&clip_id=8547.

The foregoing negates the allegations set forth when reviewing Appellants' Letter therein, as well as the request for a *de novo* hearing. For this reason, Compost Crew respectfully requests that this Board conduct an on the record review of this appeal.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'Casey L. Cirner'.

Casey L. Cirner

A handwritten signature in blue ink, appearing to read 'Scott C. Wallace'.

Scott C. Wallace

cc: Ben Parry, CEO, Compost Crew, Inc.
Kristie Blumer, Senior Director, Composting, Compost Crew, Inc.
Michele Rosenfeld, Esquire, Attorney for Appellants
Tolson DeSa, Zoning Administrator
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