

4/2/2025

Protestant Exhibit 1
2024-0060-S
04/03/2025

Re: Entzian Investments, LLC
2024-0060-S
0 Bayard Road
Lothian, MD 20711
Tax Acct. No.: 1000-9004-2993

Mr. Hollman,

I am writing on behalf of my client Kathryn Domino, who lives at 4756 S. Polling House Road, immediately to the North of the property that is the subject of the referenced application. Mrs. Domino and her husband purchased 4756 S. Polling House Road in 2014. Mr. and Mrs. Domino purchased the property to live on and to operate a small horse breeding farm. In 2024 Mr. Domino passed and Mrs. Domino has continued operating the horse farm on the property with the help of friends and family.

Several years ago the applicant held a community meeting, during which his engineer presented plans to subdivide the subject property. Ms. Domino hired CPJA to review the applicant's proposal for the subdivision, and to advocate on her behalf during the community meeting. During this meeting several questions were asked about what appeared to be unpermitted clearing and storage of contractor's equipment on the subject property. The applicant confirmed that the area in question was used to store items. When asked about a certificate of use the applicant stated that "It is tied up in court". To-date, the subdivision application has not been made.

Enztian Investments, LLC purchased the property in 2016, and code compliance cases can be found for the subject property since 2017. Some appear to have merit, and some cases were almost immediately dismissed. In 2018 case E-2018-743 was brought against the applicant for unpermitted tree clearing. In the case notes the inspector states that he believes a business is being operated on the property. Then, in 2020, case Z-2020-956 was brought against the applicant with a multitude of possible violations. The case notes on the Code Compliance website indicate that additional investigative efforts were made by I&P, with an ultimate resolution being that the case was referred to the Office of Law for injunction.

The Special Exception (§18-11-132)

Section 18-11-132 of the Anne Arundel County Code states the requirements for the conditions of Landcaping and Tree Contracting within the RA zoning district. They are as follows:

- 1) The facility shall be located on a lot of at least two acres.
The site plan provided in the application shows the subject property is approximately 49.068 acres in area.
- 2) All vehicular access to the site shall be directly from a collector or higher classification road.
S. Polling House Road is listed as a Collector Road on the MyAnneArundel GIS Website. The Right-of-Way width of S. Polling House Road is not shown on the applicants site plan, but using MyAnneArundel the ROW width is estimated at 30'. Additional ROW dedication should be required along the frontage of the subject property. It is understood that this review will occur during the required Preliminary and Site Development Plan phase of the project. Additionally, the site's current access, a driveway located approximately ½ mile from the intersection of S. Polling House Road and Bayard Road, does not provide adequate site distance (Exhibit 1 & Site Distance Analysis). Inadequate site distance poses a public safety hazard, which is worsened when the turning vehicles are larger trucks, which is typical of a landscaping company. Lastly, the code requires direct access from a collector or higher road. As indicated in the county findings summary, it appears as though access, or a fraction of the vehicles accessing the site, are doing so through a controlled access gate located along the Southern property

line (Exhibit 2). Access to the site, through another property, does not constitute direct access to the Collector Road. Access to the site should be restricted to be only via direct access to S. Polling House Road.

- 3) Buildings and outdoor areas to be used for parking, loading or storage of vehicles, equipment, tools, and supplies shall be delineated on a site development plan and located at least 50 feet from all property lines and public roads, and the maximum coverage for outdoor storage may not exceed 20% of the total lot area.

Based on the improvements and area highlighted on the site plan included in the application it appears that the developer has complied with this requirement, however, as indicated in the county report the applicant has failed to delineate all areas that are being operated as the desired use. The aerial imagery found on MyAnneArundel dated 2024 and Google Maps Satellite view dated 2025 show that there is an additional area located along the Eastern property line (immediately adjacent to the property with a street address of 4766 S. Polling House Road) being used as outdoor storage of construction material, with portions appearing to extend onto the adjacent property. It does not appear that this area complies with the above requirement. A variance would be required to perfect the storage of materials located closer than 50' to a property line. Additionally, this area appears to store materials that are not typical of a landscape and tree contractor (large heavy equipment, articulating truck, large diameter concrete pipe, large storm drain inlets and storm drain structures, etc.)(Exhibit 6). These materials are typical of a utility contractor, or general contractor, and not a landscaper. Further, it appears that these items are being stored within the 100' stream buffer.

- 4) The location and design of the operation shall be such that the use will not be a nuisance to neighboring properties due to noise, dust, and fumes.

The applicant asserts that the operation shall not be a nuisance to the neighboring properties, but with storage of materials closer to the property line than allowed, how could it not be? Further, the large equipment that can be seen on the aerial imagery is not quiet. Tracked equipment, which can also be seen on the aerial imagery, is especially onerous in regard to noise and dust creation, and is certainly louder and creates more dust than equipment that is more typical of a landscaping company. The large pipes and storm drain structures indicate that the heavy equipment is used to transport or load and unload these materials, as they are too large and too heavy for smaller equipment to manipulate.

- 5) Hours of operation shall be limited to 7:00 a.m. to 6:00 p.m.

The applicant states that the hours of operation have and will continue to be between 7 a.m. and 6 p.m.

- 6) Accessory outdoor storage and parking area shall be screened from neighboring properties in accordance with the Landscape Manual.

The applicant states that the outdoor storage and parking areas are currently screened from neighboring properties in accordance with the landscape manual, but the aerial imagery shows no evidence of this. In fact, the parking area serving the southernmost structure on the property has no screening from the adjacent property at all. The provided site plan shows no landscaping buffers or proposed landscaping to provide the required screening.

- 7) Minor repairs to vehicles or equipment are permitted, provided such activities take place inside a building. Body work, engine rebuilding, engine reconditioning, painting, and similar activities are not permitted.

The applicant has stated that repairs will occur inside of the buildings.

General Special Exception Criteria (§18-16-304)

Section 18-16-304 of the Anne Arundel County Code states the general criteria for approval of a special exception.

- 1) The use will not be detrimental to the public health, safety, or welfare;

The application asserts that the use will not be detrimental the public health, safety, or welfare, but provides no evidence to support this claim. Undoubtedly the 'public' in question would include residents or commuters that drive on S. Polling House Road. While the applicant opines that the use would not be detrimental to public safety, the condition and width of S. Polling House Road does not lend itself to heavy truck traffic that would be typical of a landscaping company. S. Polling House Road is a narrow road, with tight turns and an abundance of crest and sag curves that provide little visibility, approximately 10' wide travel lanes, and no shoulder, all typical of a Scenic and Historic Road (Exhibit 3). Beyond the edge of the travel way there are no flat runoff areas that could be used in emergencies. Should a vehicle be 'pushed' off the travel way near where the subject property has access to the road, they would be met with steep drop offs, large diameter trees, or roadside ditches and swales. This lack of shoulders and runoff areas was recently discussed in another Special Exception hearing (2023-0221-S). During the hearing, and in the administrative officer's decision, it was determined that a lack of shoulder and runoff areas posed a real danger to the public. Additionally, while S. Polling House is classified as a Collector

Road, it is posted that the road is closed to thru trucks with a GVW over 5T (Exhibit 4) (for reference a Ford F350 weighs between 10,200lbs and 14,000lbs). One could assume that, due to the presence of larger material and equipment than is typical for a landscaping company, the transporting vehicle would also be larger than typical.

- 2) The location, nature, and height of each building, wall, and fence, the nature and extent of landscaping on the site, and the location, size, nature, and intensity of each phase of the use and its access roads will be compatible with the appropriate and orderly development of the district in which it is located;
The applicant states that they will comply with this requirement.
- 3) Operations related to the use will be no more objectionable with regard to noise, fumes, vibrations, or light to nearby properties than operations in other uses allowed under this article;
The applicant states that they will comply with this requirement, but have provided no evidence to prove that the desired use would not be any more objectionable than any other use allowed under Article 18.
- 4) The use at the location proposed will not have any adverse effects above and beyond those inherently associated with the use irrespective of its location within the zoning district;
The applicant states that the location of the proposed use will not have adverse effects above and beyond those inherently associated with the use.
- 5) The proposed use will not conflict with an existing or programmed public facility, public service, school, or road;
The applicant states that the proposed use will not conflict with an existing or programmed public facility, public service, school, or road but as outlined above we do not agree. The use of S. Polling House poses a potential danger to other drivers on the road, and the thru use of heavier vehicles (trucks with a GVW over 5T) is prohibited.
- 6) The proposed use has the written recommendations and comments of the Health Department and the Office of Planning and Zoning;
The Health Department has recommended denial of this application, as they believe that the case (2024-0060-S) could adversely affect the property. Additionally, the Office of Planning and Zoning has recommended denial of this case. The Office of Planning and Zoning believes that there may be other uses operating on the property, and the areas highlighted on the applicant's site plan include materials that are not typical of a landscaping company.
- 7) The proposed use is consistent with the County General Development Plan;
The applicant has stated that the proposed use is consistent with the county GDP.
- 8) The applicant has presented sufficient evidence of public need for the use;
The applicant has provided no evidence of a public need for the use in the Special Exception application. A quick google search shows that there are no less than eight (8) other landscaping companies within a 3-mile radius. (Exhibit 5).
- 9) The applicant has presented sufficient evidence that the use will meet and be able to maintain adherence to the criteria for the specific use;
The applicant has stated that they will meet, and continue to meet, the use specific criteria.
- 10) The application will conform to the critical area criteria for sites located in the critical area; and
The subject property is not located within the Critical Area Overlay.
- 11) The administrative site plan demonstrates the applicant's ability to comply with the requirements of the Landscape Manual.
The provided site plan fails to identify how the applicant will screen the proposed use from adjacent properties.

Based on the above, it is our belief that the subject application does not align or comply with the General Special Exception criteria found in Article 18-16-304 or the specific use criteria found in Article 18-11-132.

Thomas Hall

Thomas Hall, PE
Division Manager
Charles P. Johnson & Assoc., Inc.

Exhibit 1



Streeview from Applicant's property driveway, facing South



Streeview from Applicant's property driveway, facing North

Exhibit 2



Controlled Access Gate located on 362 Bayard.

Exhibit 3



North facing, approximately 1,200ft North of Bayard Road.



South facing, approximately 1,200ft North of Bayard Road.



North facing, approximately 1,800ft North of Bayard Road.



North facing, approximately 2,000ft North of Bayard Road.



North facing, approximately 3,200ft North of Bayard Road.



South facing, approximately 3,400ft North of Bayard Road.



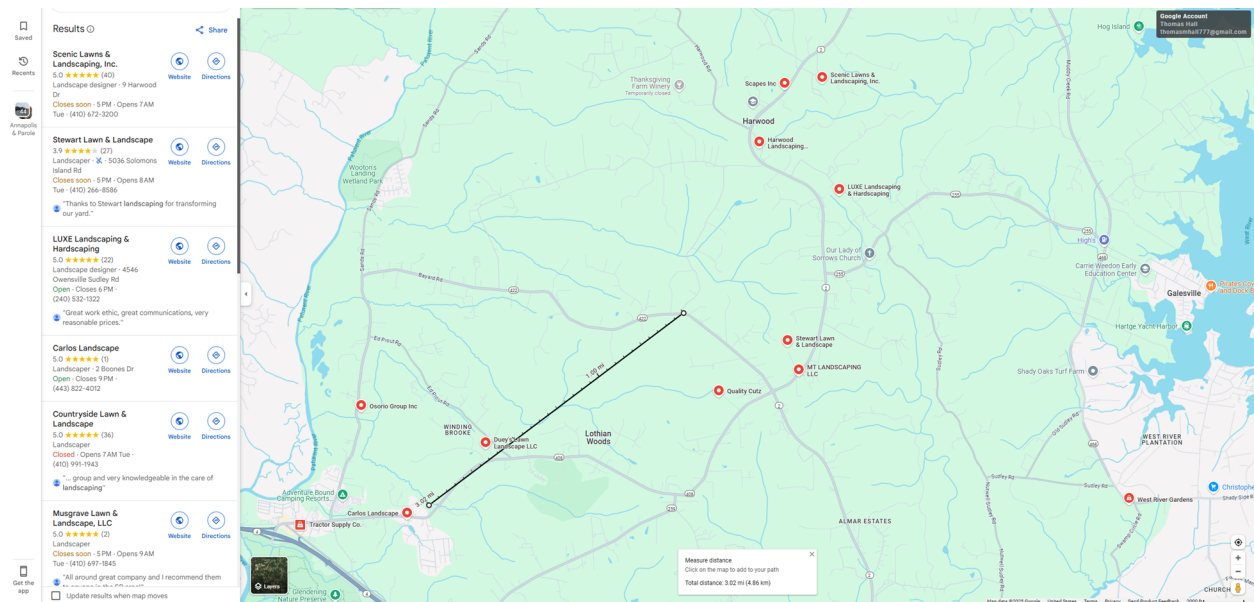
South facing, approximately 3,800ft North of Bayard. Even smaller trucks, with a GVW less than 5T occupy the entire narrow travel lane.

Exhibit 4



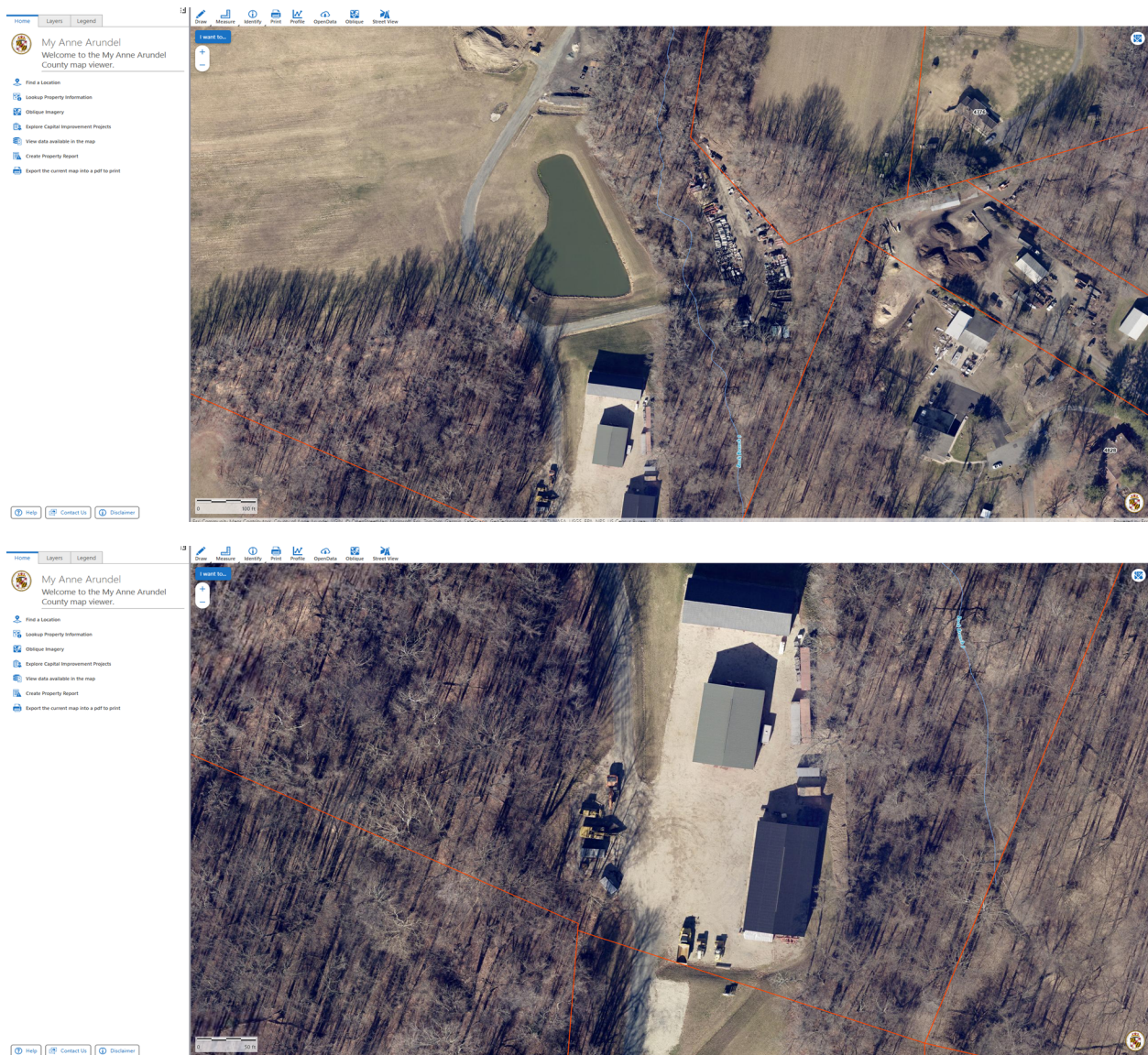
No thru trucks over 5T GVW

Exhibit 5



Google search showing other landscaping companies

Exhibit 6



Evidence of equipment and materials that are not typical of a landscaping company

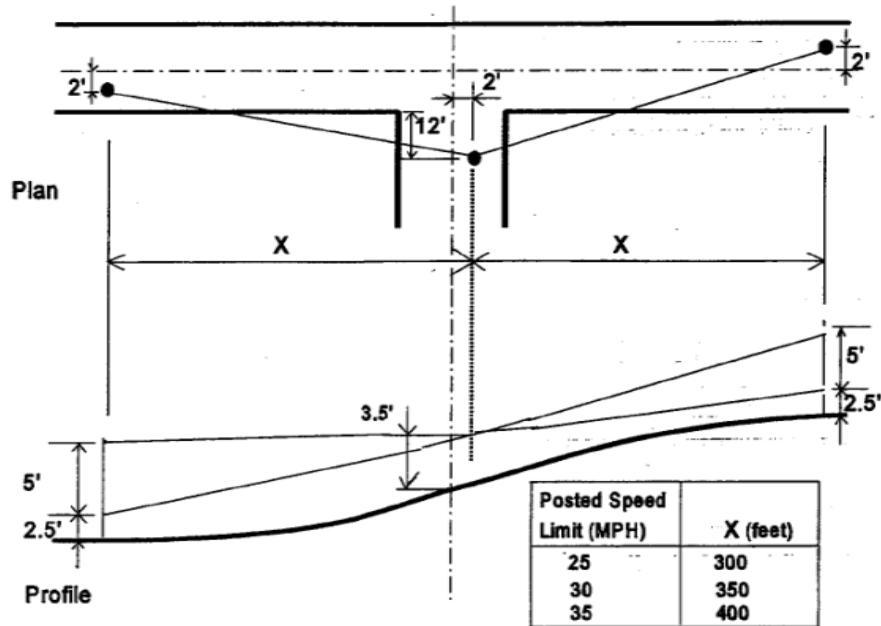
Exhibit 7



4338 Solomons Island Road (Scapes Inc.) showing equipment and materials typical of a traditional landscaping company. ZCU-2015-71661 – Nursery with a Landscape Business. Trucks along the West are standard small dump trucks. Equipment located to the north are small skid loaders. A small wheeled loader located in the middle of the site, and pallets of stored materials located to the South.

Exhibit 8

Figure 7 – Sight Distance Requirements for Local and Collector Roads
(See AASHTO for intersections with Arterial or higher roadways)

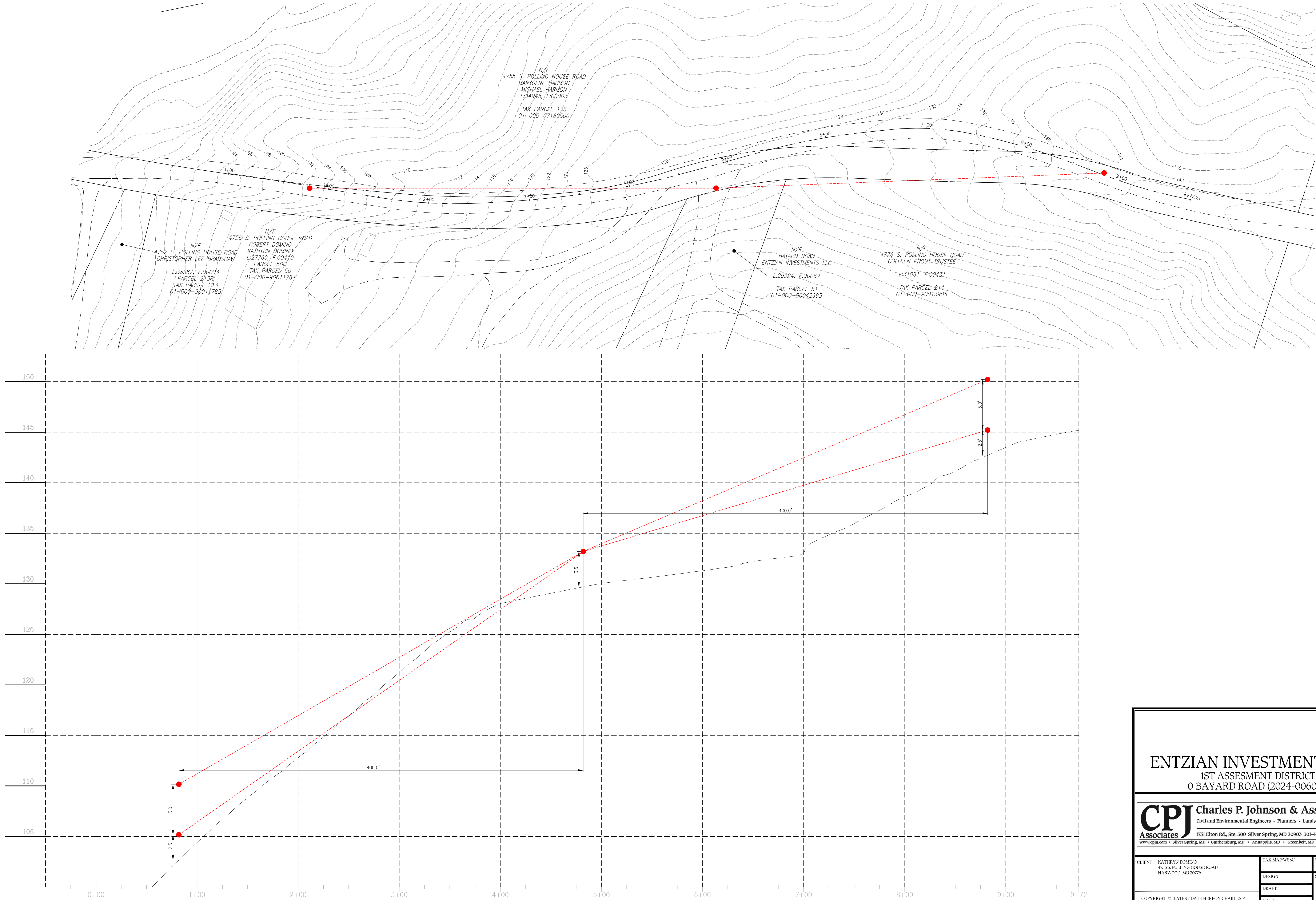


The sight triangle must be free of obstructions in both the horizontal and vertical planes as defined above.

Published 10/10 Revised 04/24

Appendix F of the Anne Arundel County Design Manual, Chapter 3 – Roads, Streets, and trafficways

NOTE: within the same chapter of the design manual, in Section II.H.2.j – Sight distance, the sight distance for a driveway shall be the same as intersection sight distance or as approved by DPW.



ENTZIAN INVESTMENTS, LLC
1ST ASSESSMENT DISTRICT
0 BAYARD ROAD (2024-0060-S)

CPJ
Associates

Charles P. Johnson & Associates, Inc.
Civil and Environmental Engineers • Planners • Landscape Architects • Surveyors
1751 Elton Rd., Ste. 300 Silver Spring, MD 20903 301-434-7000 Fax: 301-434-9394
www.cpj.com • Silver Spring, MD • Gaithersburg, MD • Annapolis, MD • Greenbelt, MD • Frederick, MD • Fairfax, VA

CLIENT: KATHRYN DOMINO 4756 S. POLLING HOUSE ROAD HARWOOD, MD 20776	TAX MAP/WSSC	SITE PLAN NO:	
	DESIGN	SHEET	OF
	DRAFT		
	DATE	FILE NO:	
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