



THE
CITY OF BRUNSWICK
MARYLAND

1 WEST POTOMAC STREET · BRUNSWICK, MARYLAND 21716 · (301) 834-7500

**Board of Zoning Appeals
Agenda
July 27, 2023
6:00 PM**

1. Minutes: June 22, 2023

Approval

3. Chair: Gary Williams

4. Old Business:

BR-BOA-23-01-SE - 401 E Potomac Street Special Exception

Request for Special Exception to allow adaptive reuse in a non-residential building in the R-1 Zone to establish multi-family use as permitted in R-2 Zone per 11.4 (B) of the Zoning Ordinance, at 401- 403 E Potomac Street. (SDAT 25-477138, Parcel 0978, Plat 44/44 and SDAT 25-477111, Parcel 1035, Lot 22, Plat 43/94).

Vote Anticipated

5. New Business: None

6. Board Matters:

7. Adjournment



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**Board of Appeals
Page 2 of 2
Notes Cont.**

NOTES:

New cases will not be started after 10:30 PM unless approved by the Board. Any unfinished items will be heard in order at 6:00 PM on a date determined by the Board.

Applicant presentations will be limited to twenty (20) minutes. Public comments will be limited to four (4) minutes for individuals and ten (10) minutes for bonafide organizations. The Chair may extend these times upon good cause shown. Written comments will be accepted prior to and at the hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

Applicants, Applicant's Representatives and Citizens; Please be prepared to speak within the time allotted by the Board of Appeals for the Agenda Item which you will be testifying on. All speakers will be asked to address the Board of Appeals from the podium when called upon.

Anyone presenting material (photographs, letters, graphs, charts, etc.) to the Board of Appeals at a meeting should provide a minimum of ten (10) copies for distribution to the members and staff.

Agenda Items will be reviewed in succession and it is the responsibility of the applicant and other persons of record to be prepared to discuss their agenda item during the respective session.

If Needed the Board will meet in Closed Session prior to the regular meeting to consult with the Board Counsel and selected Staff.



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**Brunswick Board of Appeals
Minutes
June 22, 2023**

Commission Members Present: Vice-Chair Steve White, Secretary Walter Stull, and Alternate Eric Ahalt were present. Chair Gary Williams absent.

City Attorney: Not present.

Staff Present:

The Planning Director Bruce Dell and Principal Planners Heather Gottke & Brittany Crosten were present.

Chair: Vice Chair Steve Williams acted as chair and called the meeting to order at 6:00 p.m.

Minutes:

The minutes for the October 27, 2022, meeting were reviewed and approved by motion from Mr. Stull and a second by Mr. Ahalt. The motion was approved 3-0-1.

Old Business: None

New Business:

BR-BOA-23-01-SE 401 – 403 East Potomac Street, Adaptive Re-use and Multifamily in the R-1 Zone

Mr. Dell presented a brief history and overview of the newly adopted Ordinance 592 which permits adaptive re-use of existing non-residential structures in R-1 zoning district, to allow uses permitted the R-1 & R-2 zoning districts by right with a special exception approval. That Ordinance became effective on June 1, 2023.

Heather Gottke then presented the staff report. Staff report included identification of the property, brief history, proposed use, parking, recommendation, findings, and proposed conditions. Board members did not have any questions at that time.

The Applicants Ozzy Deniz & Sandesh Gowda were then invited to the podium and sworn in for testimony. Applicants presented briefly to the BOA and the public. They also answered questions from Board members regarding parking, the construction timeline, number of units and findings of the building's existing condition.

Public Comment:

Chris Christakis – 409 East Potomac Street
Joy Christakis – 409 East Potomac Street
Amilynn Adams – 1169 Potomac View Parkway
Chris Worth – 21 East B Street (on behalf of 405 & 407 East Potomac Street)
Anthony Fletcher – 8 Third Avenue
Kathy Valdes – 21 East B Street
All spoke against the application.

Response and Discussion:

The applicant was then invited back to the podium to address concerns raised by public comment. In doing so the applicant decided to remove the commercial component of the application as they do not have a user. If that component were to be added in the future it would require another hearing in front of the Board of Appeals.

Board Members then engaged in additional questions with the applicant and staff. They also discussed potential motions and views for and against the motions.

Decision:

Mr. Ahalt made a motion to continue the Special Exception for a Multifamily in the R-1 Zone for 30 days. Mr. Stull provided the 2nd and the motion carried 2-1-1 – with Mr. White voting against the motion.

Adjournment:

Being no other business, Mr. White moved to adjourn.

Respectfully submitted,

Gary Williams, Chair
Brunswick Board of Appeals

MEMORANDUM

TO: BOA
FROM: Bruce Dell
DATE: July 27, 2023
RE: DISCUSSION OF BOA MEETING PROCEDURES for July 27, 2023

1. Review of BOA By-laws

- a. Hearings & Meetings
- b. Withdraw of Application
- c. Reconsideration
- d. Appeals to the Courts

2. Summary and Outline of Legal Requirements

3. Review of Ordinance 592

- a. Why the need for an amendment (control of possible uses)

4. Powers of the BOA 24.3(B) of Zoning Ordinance

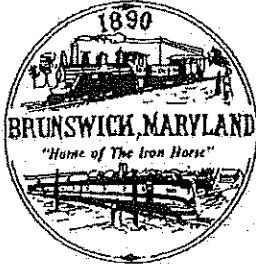
5. 24.8(C) Special Exceptions

- a. A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:

- i. The proposed use is consistent with the purpose and intent of the Master Plan and of this chapter;
- ii. The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located;
- iii. Operations in connection with any special exception use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics than would be the operations of any permitted use not requiring special exception approval;
- iv. Parking areas will comply with the off street parking regulations of the Zoning Ordinance and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety; and
- v. The road system providing access to the proposed use is adequate to serve the site for the intended use.

6. Continue meeting with swearing in

7. OLD BUSINESS etc.



CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

Board of Zoning Appeals Bylaws & Procedures

I. MEMBERSHIP, POWERS AND DUTIES

The membership, powers and duties of the Board are as set forth in Article 66B of the Maryland Code and in the laws and ordinances of the City of Brunswick.

II. COMPOSITION OF MEMBERSHIP

- A. Number: The Board consists of three (3) members as provided by law. In addition, there is one (1) alternate member who is empowered to sit on the Board in the absence of any Member of the Board.
- B. Appointment: Members are appointed by the Mayor and Council of the City of Brunswick as provided by law.
- C. Term: The term of each Member is three (3) years, or as appointed by the Mayor and Council of the City of Brunswick as provided by law.
- D. Chair: The Board shall elect a chair from one of its members to serve a term of one (1) year. The chair shall preside at meetings of the Board and may call special meetings of the Board, may compel the attendance of witnesses through subpoena, and may grant restraining orders to stay actions that are under appeal. The chair shall sign all official documents pertaining to Board Records.
- E. Vice-Chair: The Board shall elect a vice-chair from one of its members to serve a term of one (1) year. The vice-chair shall preside over meetings in the absence of the chair and may call special meetings of the Board and may compel the attendance of witnesses through subpoena, and may grant restraining orders to stay actions that are under appeal when the chair is unable to do so and all duties required.
- F. Secretary: The Board shall elect a secretary from one of its members to serve a term of one (1) year. The Secretary shall prepare or have prepared written minutes of all meetings for approval by the Board and oversee the maintenance of the Board's Records.
- G. Alternate: The Alternate shall have all powers and duties of a regular Board member when sitting on a case.

III. FILING OF APPLICATIONS

- A. An official application, inclusive of all required documents, for a special exception, variance or administrative appeal may be filed at any time prior to 3:00 P.M. during normal business hours.

- B. All applications for a special exception or variance shall include plot plans and/or sketches and other information necessary for proper consideration of the application.
- C. Administrative appeals to the Board must be filed within twenty (20) days after the date of the administrative decision from which an appeal is taken. Time shall be computed from the date of the written notice of the decision. The Board, however, may decide, on a unanimous vote of the sitting members, to hear an administrative appeal filed after the expiration of the 20-day filing period if the Board determines that special conditions exist.
- D. If a grant of a special exception is denied or withdrawn with prejudice, no new application for the denied user on the same property shall be accepted for six (6) months after the decision denying or withdrawing the previous.
- E. Any application for special exception withdrawn without prejudice or dismissed prior to hearing without prejudice may be re-filed pursuant to procedures set forth above.
- F. Applications for special exception seeking a different use with regard to property, which has been the subject of a previous application, may be submitted pursuant to procedures set forth above.
- G. All applications for special exceptions and variances must be made by a person with a financial, contractual or proprietary interest in the subject property. The Board may require proof of such interest. If there is a conflict in those interests, the person with controlling interest or legal right shall determine if an application is to be filed.

NOTE: Specific details on the filing of applications are delineated in the Board of Appeals filing procedures.

VI AGENDA/NOTICES

The agenda of applications and appeals to be heard shall be maintained by the Secretary or his/her designee and shall be available for public inspection during normal business hours.

V. HEARINGS AND MEETINGS

- A. Time and Place of Hearings: The Board holds regular hearings on the fourth Thursday of every month at 7:00 P.M., or at such other time as the Board may designate. Special meetings are held upon the call of the Chair. Dates of the public hearings shall be on the signs on the property, which is the subject of special exception, variance or claim of administrative error before the Board. Notices shall be sent by mail to the applicant and adjoining property owners as required by law and these rules.
- B. Quorum: A minimum of two members of the Board shall be required to conduct hearings or any business of the Board. The Chair shall have the right to make or second motions and may vote.
- C. Continuance of Hearing: Hearings may be continued from time to time, and time and place of the continued hearing shall be publicly announced at the time of the continuance. No further notice of such continued hearing shall be required; otherwise, notice thereof shall be given as in the case of the original hearing.

D. Order of Business: Meetings of the Board may be conducted in the following manner:

1. Approval of the minutes of previous meeting(s).
2. Overview of the hearing procedures presented by the Chair.
3. Old business.
4. New business.
5. Board matters.
6. Adjournment.

E. Procedure: The hearing of cases shall be conducted in the following manner:

1. All persons wishing to offer testimony on the case should sign up prior to the case being called and shall be sworn in. Only sworn testimony will be considered.
2. Staff report and agency comments shall be presented and made a part of the record.
3. Applicant, appellant, or agent shall present the request to the Board.
4. Testimony in support of the application or appeal.
5. Testimony in opposition to the application or appeal.
6. Additional relevant testimony neither in support or opposition to the application or appeal.
7. Letters relevant to the case shall be noted for and made a part of the record.
8. Rebuttal testimony by the applicant, appellant or agent if opposition of testimony is presented.

In each case, the applicant or appellant shall have a twenty (20) minute presentation period. Groups recognized by the Chair shall have ten (10) minutes and individuals shall have four (4) minutes. The Chair may grant extensions of the time limits unless an objection is raised by a board member. Board members and the staff may question the presenter or witness at any time during the hearing; in addition, the Chair may direct a person to respond to a question of the Board. Cross-examination of witnesses as to relevant material is allowed, as required by law, with the Chair presiding.

The rules of evidence applicable to administrative hearings as set forth by the Court of Appeals of Maryland shall apply generally. The Board shall conduct hearings in a manner best calculated to afford all parties an opportunity to present their positions and to serve the ends of justice and fairness. The Board may make such rulings as may be necessary to conduct the hearing in an efficient and orderly manner including, but not limited to, imposing time limitations and excluding irrelevant or repetitive evidence. Appellants and applicants are bound by any legal proffers or evidence offered and adopted by the Board as a condition or reason of the Findings and Decision.

F. Identification of Parties: All persons appearing to testify or submit evidence shall identify themselves on the sign-up sheet provided by staff and again at the podium by name, address and

any person or entity they represent. Designated spokesperson for groups shall identify themselves as such as well.

- G. Determination By Vote at Hearing: Two votes are required to grant an application or an appeal. Failure to obtain two votes shall have the effect of a denial. The Board may impose conditions on a grant of a special exception or variance petition, as provided by law.
- H. Decision: The Board shall grant or deny each application or appeal in writing; Each grant or denial shall set forth a summary of facts found and reasons for the decision relevant to the pertinent criteria. The Secretary shall prepare or have prepared a written Resolution for each grant of a special exception, variance or administrative appeal. The decision does not become official and final until signed by all members of the Board who heard the case, usually at the regularly scheduled meeting the month following the hearing(s).
- I. Record: An electronic transcript (tape recording of the hearing) shall be kept by a recording device, and the audiotape shall be preserved as a public record for a period of three years. The recording may be transcribed stenographically or copied electronically by any interested person at his/her own expense by arrangement with and under the supervision of the Secretary of the Board or his/her designee. If there are discrepancies between recordings, the Board's recording is the official recording. The only official written transcript is that approved by the Secretary.
- J. Minutes: Written minutes, showing the disposition of all cases and showing the vote of each member upon the question, shall be approved by the Board, shall be signed by the Chair, and kept by the Secretary or Acting Secretary. The signed minutes shall be a public record available for inspection.

VI. WITHDRAWAL OF APPLICATION

Applicants may withdraw an application at any time. If an applicant submits and then withdraws an application for appeal, the applicant shall be precluded from filing another application for substantially the same proposal concerning the same property for six (6) months from the date of withdrawal of the application.

VII. RECONSIDERATION

The Board may entertain a request for reconsideration of a decision.

- A. Parties with a financial, contractual, or proprietary interest, or who became a party of record at the initial hearing may request reconsideration. Such a request must be in writing, must be received within two weeks after the oral decision of the Board and must set forth the reasons for the request. The party requesting reconsideration shall also give a written notice to any person who is a party or who became a party in the matter at the public hearing. Verification of this notice being sent must be presented to the Board at the time of the written request. No action on any request will be taken except upon a motion by a Board member.
- B. A Board member (whether or not on the prevailing side of a question or at the initial hearing) may make a motion for reconsideration at any Board meeting prior to the final signing of the decision.

If the Board agrees to reconsider a decision and conduct a hearing, such hearing shall not be scheduled any sooner than the Board's next regular meeting, subject to the notice requirements. When a reconsideration hearing is scheduled, notice shall be given as in the case of the original hearing, and shall include any persons who are parties or who became parties at the original hearing. No additional posting or fees will be required.

VIII. APPEALS TO THE COURTS

A final decision may be appealed to the Circuit Court as provided for in the State and City laws. Appeal times begin from the signed, written decision of the Board.

IX. CONDUCT OF BOARD MEMBERS

- A. Speaking for the Board A member shall not appear to speak for the Board except as authorized by the Board. In any public or private statement concerning Board affairs, members will carefully indicate whether they are speaking for the Board or for themselves.
- B. Gratuities and Entertainment Members shall not accept gifts or compensation from any persons involved in matters which have come before the member while on the Board or in matters that it is reasonable to assume may come before the Board.
- C. Privileged Information Members shall not engage in any business transaction in regard to which they have an advantage because of information gained through membership on the Board.
- D. Conduct at Meetings Members shall conduct themselves at Board meetings in a fair, understanding and gracious manner. They shall seek to be considerate of all individuals, attitudes and differences of opinion involved in official Board business.

X. DEFINITIONS

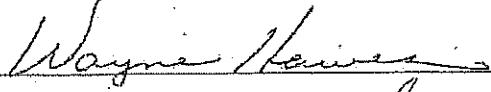
- A. Definitions: The definitions found in Article 4 of the City of Brunswick Ordinance shall apply to these bylaws.

XI. RULES NOT JURISDICTIONAL

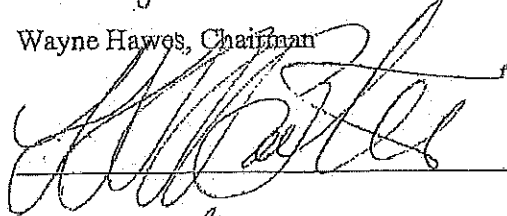
These rules of procedure do not constitute jurisdictional requirements. Failure of the Board, its staff, or any party to comply with any provisions of these rules of procedure shall not invalidate any otherwise valid decisions or action of the Board.

XII. These by-laws and procedures supercede all such pervious procedures. The Board may approve changes to these procedures at any regularly scheduled monthly meeting.

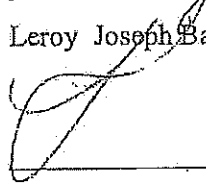
Adopted by the Board of Appeals this 24TH day of APRIL, 2003.



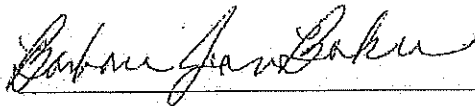
Wayne Hawes, Chairman



Leroy Joseph Bates, Member



Vacant, Member



Barbara Jean Baker, Alternate Member

BRUNSWICK BOARD OF APPEALS

July 27, 2023

SUMMARY AND OUTLINE OF LEGAL REQUIREMENTS

MARYLAND LAW

- STATE DELEGATES ZONING POWER TO MAYOR & COUNCIL UNDER SECTION 4.07 OF **ARTICLE 66B** OF THE ANNOTATED CODE OF MARYLAND
 - RIGHT TO ENACT COMPREHENSIVE PLAN AND ZONING ORDINANCE
 - RIGHT TO DECIDE HOW PROPERTY IS PLANNED AND ZONED AND WHAT USES ALLOWED IN EACH ZONE
 - RIGHT TO APPOINT BOARD OF APPEALS AND DELEGATE LIMITED AUTHORITY TO DECIDE SPECIAL EXCEPTIONS, VARIANCES AND ADMINISTRATIVE ERRORS

CITY CODE

- CITY CODE SECTION 24.1 CREATES BOARD OF APPEALS
 - CITY CODE SECTION 24.3 DEFINES ITS POWERS-LIMITED TO THOSE: SPECIAL EXCEPTIONS, VARIANCES, ADMINISTRATIVE ERROR, SUBSTITUTION AND EXPANSION OF NON-CONFORMING USES AND FLOODPLAIN
 - CITY CODE SECTIONS 24.3 C. AND 24.8 B. GOVERN VARIANCE REQUIREMENTS
 - CITY CODE SECTION 24.8 C. GOVERNS SPECIAL EXCEPTION REQUIREMENTS
 - CITY CODE SECTIONS 24.8 D. AND 24.9. GOVERN CLAIMS OF ADMINISTRATIVE ERROR
 - CITY CODE SECTION 24.3 D. AND E. GOVERN NON-CONFORMING USES.
 - SECTION 24.3 F. GOVERNS VARIANCES, SPECIAL EXCEPTIONS AND NON-CONFORMING USES IN **FLOODPLAIN**.

THE HEARING AND THE DECISION

- ADOPT AND FOLLOW BYLAWS-OPEN MEETINGS ACT
- APPLICANT HAS THE "BURDEN OF PROOF" ON ALL REQUIREMENTS
- APPLICANT MUST PRESENT "SUBSTANTIAL EVIDENCE" ON THE RECORD AT THE HEARING
- BOARD'S DECISION MUST BE "FAIRLY DEBATABLE" BASED ON SUBSTANTIAL EVIDENCE (E.G., REASONABLE PERSON TEST)
- BOARD **MUST MAKE WRITTEN FINDINGS OF FACT** AS TO EACH REQUIREMENT SUPPORTING THE APPROVAL OR DENIAL
- FORMAL RULES OF EVIDENCE DO NOT APPLY-HERESAY ALLOWED
- CAN APPLY WEIGHT AND CREDIBILITY TO EVIDENCE IN YOUR REASONABLE JUDGMENT
- BOARD CAN APPLY CONDITIONS TO APPROVAL ON VARIANCE, SPECIAL EXCEPTION AND NON-CONFORMING USES
- "QUASI-JUDICIAL PROCEEDING"-DUE PROCESS OF LAW
 - PROPERLY ADVERTISED
 - MUST SWEAR IN ALL WITNESSES INCLUDING STAFF
 - MUST ALLOW REASONABLE CROSS-EXAMINATION
 - MUST BASE DECISION ON EVIDENCE PRESENTED-NOT OUTSIDE FACTORS
- APPEALS ON THE RECORD TO CIRCUIT COURT FOR FREDERICK COUNTY
- RECORD OF HEARING MUST BE MAINTAINED
- **SECTION 24.9:** BOARD MAY NOT TAKE ACTION THAT WILL BE CONTRARY TO THE MASTER PLAN – IF QUESTIONS ARISE ON COMPLIANCE WITH MASTER PLAN, BOARD SHALL REQUEST RECOMMENDATION OF PLANNING COMMISSION

SPECIAL EXCEPTIONS

- PRESUMED TO BE IN THE GENERAL WELFARE AND COMPATIBLE WITH PERMITTED USES IN THAT ZONE
- UNLESS FACTS OR CIRCUMSTANCES NEGATE THAT PRESUMPTION

- **SCHULTZ V. PRITTS TEST**: DO THE FACTS AND CIRCUMSTANCES PRESENTED INDICATE THAT THE PARTICULAR SPECIAL EXCEPTION REQUESTED AT THE PARTICULAR LOCATION REQUESTED CAUSE AN ADVERSE EFFECT UPON NEARBY PROPERTIES
 - THE ADVERSE EFFECT MUST BE UNIQUE AND DIFFERENT IN KIND OR DEGREE THAN WHAT IS TYPICALLY ASSOCIATED WITH THAT SPECIAL EXCEPTION USE REGARDLESS OF ITS LOCATION WITHIN THAT ZONE (E.G., FUNERAL HOME HAS A LOT OF TRAFFIC AT CERTAIN TIMES OF DAY NO MATTER WHERE IT IS LOCATED)

VARIANCES

- TWO PRONG TEST : 1) ARE THE **CHARACTERISTICS** OF THE PROPERTY (NOT THE STRUCTURES) SUCH AS TOPOGRAPHY, SHAPE, SUBSURFACE CONDITIONS, ENVIRONMENTAL FACTORS, AND HISTORICAL SIGNIFICANCE, SO UNIQUE AND DIFFERENT FROM THE **CHARACTERISTICS** OF SURROUNDING PROPERTIES THAT THE ZONING REGULATIONS IMPACT IT **DISPROPORTIONATELY**; AND 2) DOES AN **UNNECESSARY HARDSHIP** RESULT FROM THIS DISPROPORTIONATE IMPACT
 - CANNOT BE SELF CREATED
 - MORE THAN PERSONAL FINANCIAL HARDSHIP-PRESERVATION OF SAME PROPERTY RIGHTS ENJOYED BY OTHERS IN THE AREA AND SAME ZONING DISTRICT
 - NO SUBSTANTIAL DETRIMENT TO NEIGHBORHOOD OR ZONING ORDINANCE

ADMINISTRATIVE ERROR

- APPLY THE ZONING ORDINANCE AND LAW TO THE FACTS PRESENTED

NON-CONFORMING USES

- COMPATIBILITY AND CONFORMANCE TO MASTER PLAN



THE
CITY OF BRUNSWICK
MARYLAND

1 WEST POTOMAC STREET · BRUNSWICK, MARYLAND 21716 · (301) 834-7500

MAYOR AND COUNCIL OF BRUNSWICK

ORDINANCE NUMBER 592

AN ORDINANCE OF THE MAYOR AND COUNCIL OF BRUNSWICK TO AMEND AND REVISE CHAPTER 7, ARTICLE 1, TITLE 1 OF THE CITY OF BRUNSWICK, MARYLAND CODE OF ORDINANCES, KNOWN AS THE ZONING ORDINANCE OF THE CITY OF BRUNSWICK, MARYLAND TO ADD PROVISIONS FOR ARTICLE 11; R-1 LOW DENSITY RESIDENTIAL DISTRICT.

WHEREAS, by Ordinance No. 398 effective May 8, 1998, the Mayor and Council of Brunswick ("**Mayor and Council**") enacted, ordained and adopted the "Zoning Ordinance of the City of Brunswick, Maryland" ("**Zoning Ordinance**") as part of the Code of Ordinances of the City of Brunswick, Maryland ("**City Code**"), said Zoning Ordinance having been subsequently amended to, August 27, 2013, by Ordinance No. 506; and

WHEREAS, in accordance with Title 4, Division 1 of Land Use Article of the Annotated Code of Maryland and Section 25.1 and Section 25.2 of the Zoning Ordinance, a duly advertised public hearing of the Planning Commission was held on April 24, 2023, at which public meeting the Planning Commission received, reviewed, studied, researched, considered and discussed the testimony and comments received from the City Planning Staff ("**City Staff**"), other public agencies and jurisdictions, and public comments on the aforesaid amendment to the Zoning Ordinance ("**Amendment**"); and

WHEREAS, at the conclusion of its public meeting, the Planning Commission by the affirmative votes of a majority of its members, recommended to the Mayor and Council that the Amendment as presented to the Planning Commission by the City Staff, be enacted and adopted; and

WHEREAS, the Planning Commission subsequently submitted to the Mayor and Council its recommendation on the Amendment, including the Planning Commission's recommendation of approval ("**Planning Commission Recommendation**"); and

WHEREAS, in accordance with Title 4, Division 1 of the Land Use Article, of the Annotated Code of Maryland and Section 25.2 of the Zoning Ordinance, at a public hearing on May 9, 2023, and May 23, 2023 at 6:00 p.m., notice of the time and place of which was published on the City website and on City Facebook page in the City of Brunswick, prior to the public hearing, the Mayor and Council received and considered testimony and comments from the public, public agencies and jurisdictions, the City Staff, and the Planning Commission Recommendation; and

WHEREAS, after the public hearing, the Mayor and Council reviewed the Planning Commission Recommendation, the City Staff comments and those comments received as part of the public hearing and the Mayor and Council conducted its review in public; and

WHEREAS, the Mayor and Council find that the Amendment as recommended for adoption by the Planning Commission is for the public necessity, convenience, general welfare and good zoning practices for the City of Brunswick and its citizens.

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL OF BRUNSWICK, THAT PURSUANT TO THE AUTHORITY GRANTED TO IT BY ARTICLE 25 OF THE ZONING ORDINANCE AND TITLE 4, DIVISION 1 OF THE LAND USE ARTICLE OF THE ANNOTATED CODE OF MARYLAND, CHAPTER 7 DEVELOPMENT REGULATIONS, ARTICLE 1, TITLE 1 ZONING ORDINANCE OF THE CITY OF BRUNSWICK, MARYLAND CODE OF ORDINANCES, SHALL BE AMENDED TO READ AS FOLLOWS:

SECTION I: Zoning Ordinance, Article 11, R-1 Low Density Residential District,

11.4 *Special Exceptions:*


The following buildings/structures and uses are permitted in the R-1 District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

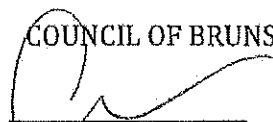
- A. *Child care centers, provided they meet the Child Care Administration's Licensing requirements for commercial child care facilities.*
- B. **NON-RESIDENTIAL STRUCTURES, PROVIDED THAT THE ADAPTIVE REUSE OR MIX OF USES IS SIMILAR TO THAT OF THE PREVIOUS USE OCCUPIED IN THE EXISTING NON-RESIDENTIAL STRUCTURE, OR SIMILAR IN NATURE TO OTHER PRIMARY OR ANCILLARY USES ALLOWED WITHIN THE R-1 OR R-2 ZONING DISTRICTS.**
- C. **ARTISAN MANUFACTURING- PRODUCTION OF COMMERCIAL GOODS BY A MANUAL WORKER OR CRAFTSPERSON, SUCH AS JEWELRY, METALWORK, CABINETRY, STAINED GLASS, TEXTILES, CERAMICS, HAND-MADE FOOD OR DRINK PRODUCTS. RETAIL DISPLAY AND SALE OF GOODS PRODUCED ON SITE, MATERIALS USED IN PRODUCTION, PRODUCTS SIMILAR TO PRODUCED GOODS, AND PRODUCTS ASSESSORY TO CRAFT PRODUCTION ARE PERMITTED AS LONG AS DISPLAY AND SALES ARE ANCILLARY TO THE PRIMARY USE. ARTISAN MANUFACTURING AND PRODUCTION DOES NOT INCLUDE ANY ACTIVITY THAT CAUSES NOISE, ODOR, SMOKE, DUST OR VIBRATION TO BE DETECTABLE ON A NEIGHBORING PROPERTY.**

SECTION II: This Ordinance shall become effective on the 10th day following its enactment by the Council and its approval by the Mayor, or on the 10th day following its enactment by the Council over the veto by the Mayor, but no sooner than ten (10) days after the public hearing at which it was passed.

PASSED this 23 day of May 2023 by a vote of 5 for; 0 against, 0 abstaining and 1 absent.

ATTEST:


Julie Martorana


COUNCIL OF BRUNSWICK

Andrew St John

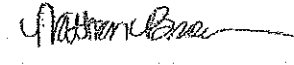
City Administrator

Mayor Pro Tem

APPROVED this 23 day of May 2023.

ATTEST:


Julie Martorana
City Administrator


Nathan Brown
Mayor

EFFECTIVE DATE: June 2, 2023

Date: May 23, 2023

24.3 Powers of the Board of Appeals:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator or authorized agent under the provisions of this Ordinance.
- B. To hear and grant or deny special exceptions as allowed by the terms of this Ordinance.
- C. To authorize, upon appeal, in specific cases, variances from the terms of this Ordinance, provided that the need justifying the variance is substantial and immediate and not merely for the convenience of the applicant or to increase the dollar value of a property. The applicant must prove that the strict application of the regulation creates a practical difficulty, or specifically that:
 - 1. strict compliance with the regulation would prevent the use of the property for a permitted purpose or would render conformance unnecessarily burdensome;
 - 2. a lesser variance than that applied for would not provide adequate relief; and
 - 3. granting the variance would not contradict the purpose and intent of the Zoning Ordinance or compromise the public interest.
- D. To authorize the substitution of one non-conforming use for another, provided that the proposed use is determined to be more appropriate to the zoning district than the non-conforming use it is proposed to replace, that it conforms to the intent and the purpose of the zoning district in which it is proposed to be located, and is of the same general character as the principal permitted uses or authorized special exceptions of that district. Furthermore, the use must conform to the recommendations of the Master Plan. The Board of Appeals may impose reasonable conditions on the use for the purpose of protecting the public interest.
- E. To authorize the expansion of a principal or accessory building or structure containing a non-conforming use, taking into consideration the nature of the neighborhood and the effect of the proposed expansion on nearby property owners. Reasonable conditions may be imposed for the purpose of protecting the public interest.
- F. To authorize the expansion of, or addition to, a non-conforming principal or accessory building or structure, taking into consideration the nature of the neighborhood, the effect of the proposed expansion on nearby property owners, and the power of the Board of Appeals to grant variances from height and setback restrictions in accordance with the applicable sections of this Ordinance pertaining to

5. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this chapter in the zone involved, or any use expressly or by implication prohibited by the terms of this chapter in said zone.

C. Special Exceptions

1. An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.
2. A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:
 - a. The proposed use is consistent with the purpose and intent of the Master Plan and of this chapter; and
 - b. The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and
 - c. Operations in connection with any special exception use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics than would be the operations of any permitted use not requiring special exception approval; and
 - d. Parking areas will comply with the off street parking regulations of the Zoning Ordinance and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
 - e. The road system providing access to the proposed use is adequate to serve the site for the intended use.
3. In addition to the general requirements listed above, uses requiring a special exception shall be subject to the specific requirements for each use.

4. A special exception approval may be granted in accordance with the general and specific requirements enumerated in this section. The Board of Appeals may, in addition to other requirements imposed under this chapter and is hereby authorized to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the general neighborhood, and its residents or workers. Violation of such additional conditions, when made a part of the terms under which the special exception permit is granted, is a violation of this chapter and may be grounds for termination of the special exception.
5. The Board of Appeals shall not grant a special exception unless and until:
 - a. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested; and
 - b. A public hearing has been held; and the Board had made a finding of fact that the special exception requested meets the general and specific requirements outlined in this section.
6. No use or activity permitted as a special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. All enlargements, extensions, and changes in use shall require grants of special exception, as in the case of an original petition.
7. If a grant of special exception is denied, no new petition for the denied use on the same property shall be accepted by the Board of Appeals for 1 year after the date of denial of the petition.

D. Questions of Interpretation and Enforcement

All questions of interpretation and enforcement (including applications for Zoning Certificates) shall be first presented to the Zoning Administrator and then such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator, and recourse from the decisions of the Board of Appeals shall be to the courts as provided by law. In addition, certain provisions of this chapter are adopted and enforced as an agreement with the Federal Emergency Management Agency, National Flood Insurance Program regulations, and the Maryland Water Resources Administration flood management grant program regulations. Should a dispute arise concerning the interpretation of these provisions of the chapter, the counsel of the Federal Emergency Management Agency, the Maryland Department of Natural Resources, or the National Flood Insurance regulations shall prevail. The City of Brunswick



THE
CITY OF BRUNSWICK
MARYLAND

1 WEST POTOMAC STREET · BRUNSWICK, MARYLAND 21716 · (301) 834-7500

**Board of Appeals
Data Sheet/ Staff Report**

Case No. BR-BOA-23-01-SE

Hearing Date: Thursday, June 22, 2023

Applicant: Mooseheart Lofts LLC
18000 Georgia Avenue
Olney MD 20831
410-852-4131

Proposal: Special Exception to permit a Multifamily &/or adaptive reuse in the R-1 zoning district.

Location: 401-403 East Potomac Street (Moose Lodge), Parcel 0978 Lot 15
310 East A Street (Off Street Parking) Parcel 1035 Lot 22

Zoning District: R-1 Low Density Residential District

Comp. Plan Designation: Residential / Medium Density

Section of Ordinance Applied: Article 11.4-C (Special Exception)

Property:

The subject property is located at 401-403 East Potomac Street in Brunswick Maryland. The property consists of 7,278 square foot lot improved with a building consisting of a basement, lower and upper level. The building was built in 1910 and has had additions over the years. The footprint of the existing building is roughly 5,875 square feet. The building was used as a fraternal building for decades complete with a social hall, full kitchen, and restaurant. SDAT 25-477138 shows 11,136 Square feet above grade area.

The applicants have also purchased a separate lot that was and has been associated with the Moose Property for decades. This property is addressed as 310 East A Street in Brunswick Maryland. The property consists of a gravel parking lot SDAT 25-477111, parcel 1035, Lot 22 consisting of 20,198 square feet.

Proposed Use:

The proposed use is to renovate the existing building into loft style apartments. The current proposal is for up to 16 units. The property is located on East Potomac Street

just over a ¼ of a mile (roughly 1550') east of the train station. Which can help to increase ridership on the MARC and reduce vehicle trips in town. The lower level and upper level will contain a mix of one- and two-bedroom loft apartments, the basement level is proposed to serve as an amenity area including on site laundry facilities, additional storage, meeting/rec room and a gym. The owners are also considering a rooftop terrace as an amenity depending on engineer and permitting going forward. The current parking lot would be improved through the planning commission site plan process and is currently proposing 27 off street parking spaces.

Section 11.4.B -- Zoning Ordinance

The following buildings/structures and uses are permitted in the R-1 District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals

- Non-residential structures, provided that the adaptive reuse or mix of uses is similar to that of the previous use occupied in the existing non-residential structure, or similar in nature to other primary or ancillary uses allowed within the R-1 or R-2 zoning districts.

Staff finds that renovation of this currently vacant structure into multi-family residences would be a benefit to the community by allowing an adaptive re-use of the structure for a use allowed by right in the R-2 zoning district. The granting of a Special Exception requires the Board to consider the relation of the proposed use to the existing and future development patterns. Within 2 blocks east to west of this property approximately 38 rental units exist, ranging from 600 to 1000 square feet.

This use is consistent and even desired with our current and proposed draft comprehensive plan. Adaptive re-use as proposed is consistent with the Zoning Ordinance and will help prevent further deterioration of the existing structure and is less objectionable than other non-residential uses allowed by right in the R-1 or R-2 district.

Parking:

Per Article 23.1.A.3 of the Zoning ordinance, multi-family dwellings are required to provide off-street parking spaces, 2 spaces per 1-bedroom unit and 2.5 spaces per 2-bedroom unit for new construction projects. Under the current formulation of apartments 34 spaces would be required by code.

The applicant has provided 27 spaces in the associated lot, 7 parallel spaces on street, one of which will be designated as a handicap parking space for a total of 34 spaces. Additional off-street parking is available and provided by the City of Brunswick on the South side of Potomac Street as public parking. Therefore, the parking requirement as proposed has been met.

Powers of the Board

To hear and grant or deny special exceptions as allowed by the terms of this Ordinance provided that:

- An application for a special exception may be made only by persons with a financial, contractual, or proprietary interest in the property for which a special exception is requested.
- A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A Special Exception shall be granted when the Board finds that:
 - A. The proposed use is consistent with the purpose and intent of the Master Plan which designates the Property as R-1 – Low Density Residential and of the Zoning Ordinance because it allows use customarily allowed by right in the R-1 or R-2 zoning districts by Special Exception & allows for adaptive re-use or mix of uses similar to that of the previous use occupied in the structure. The proposed development promotes economic vitality, promotes a mix of housing densities, types and sizes providing residential options for citizens of all ages and incomes. The proposal is consistent with the intent of the Master Plan.
 - B. The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located because the proposed use will be primarily contained indoors of an existing building and is compatible with established R-1 and R-2 uses in the surrounding neighborhood, with many other rental units in close proximity.
 - C. Operations in connection with the requested special exception will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics than would be the operations of any permitted use not requiring a special exception in that zoning district because: the use will not be any more objectionable than other permitted R-1 uses which include houses of worship, public or private schools, public governmental buildings, community centers, fire and rescue services.

- D. Parking areas comply with the off-street parking regulations of the Zoning Ordinance, and the entrance and exit drives are existing onto City streets. 34 space required – more than 34 space provided in a parking lot and public parking on and across the street.
- E. The road system providing access to the proposed use is adequate to serve the site for the intended use. The use is located adjacent to E. Potomac Street the main existing municipal street through the downtown as required.

Objective Findings and Conditions:

1. The proposed use is consistent with the purpose and intent of the Master Plan and Article 11.4.B of the City of Brunswick Zoning Ordinance.
2. The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located with the adaptive reuse of an existing building similar to other rental units in the community.
3. Operations in connection with any Special Exception use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics, than would be the operations of other permitted uses not requiring Special Exception approval as would houses of worship, public or private schools, public governmental buildings, community centers, fire and rescue services.
4. Parking areas will comply with the off-street regulations Article 23.A of the Zoning Ordinance, with more than 34 spaces provided off-street & public parking.
5. The street system providing access to the proposed use is adequate to serve the site for the intended use as it is the main street in the downtown.
6. Applicants must comply with all City of Brunswick site plan requirements and agency comments.
7. Applicants must apply for City of Brunswick Zoning Certificate.
8. Applicants must apply for all applicable agency permits from Frederick County.

Action Needed:

1. Conduct Public Hearing and address objective findings.
2. Decision on the Special Exception as requested.



THE CITY OF BRUNSWICK, MARYLAND

1 WEST POTOMAC STREET • BRUNSWICK, MARYLAND 21716 • 301.834.7500

MEMORANDUM

TO: Bruce Dell

EXHIBIT A

FROM: Brittany Crosten

DATE: June 23, 2023

RE: 2010 Master Plan as it Applies to 401 E. Potomac Street

I. 2007 Plan

- a. Encourage residential growth within the City and in areas to be annexed to the City to accommodate future population growth.
- b. Allow for a variety of housing types to be constructed in the City to accommodate the needs of a variety of household types.
- c. Provide for a compact and orderly development pattern.
- d. Maintain the City's "small-town" character by encouraging development of a scale and design, which is consistent with existing structures.

II. 2010 Plan - Goals, Objectives, and Strategies

a. State Visions

- i. **Community Design:** Compact, mixed-use, walkable design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural, and archeological resources.
- ii. **Housing:** A range of housing densities, types, and sizes provides residential options for citizens of all ages and incomes.
- iii. **Stewardship:** Government, business entities, and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection.
- iv. **Implementation:** Strategies, policies, programs, and funding for growth and development, resource conservation, infrastructure, and transportation are integrated across the local, regional, State, and Interstate levels to achieve these visions.

b. City of Brunswick Goals:

- i. As a Priority Funding Area, Brunswick is suited for growth over the rural areas in the County jurisdiction.
- ii. Goal 3, Creating a Quality Community for all Brunswick Citizens and Businesses.
 1. Promote economic vitality.

III. Land Use

a. Existing Land Use

- i. Developed lots are in most circumstances less than 10,000 square feet or a quarter of an acre, in size. Newer developments consist generally of single-family residential homes, while the older sections of the City are usually a mix of styles including many different types of residential and non-residential uses.

b. Community Design and Development Principles

- i. In 2003 Brunswick adopted Community Design Guidelines and Development Principles.
 1. The development of Mixed-Use growth centers which promote a sense of community;
 2. Maintaining a pedestrian/cyclist-friendly environment;
 3. Reducing reliance on the automobile; and
 4. Maintaining a respect for historic growth patterns of dense, Mixed-Use communities surrounded by farms and open space.
- ii. Creating Mixed-Use neighborhoods in a compact development fashion is more consistent with Brunswick's historic settlement patterns. One of the core themes of the Community Design Guidelines and Development Principles is that development more or less flows from extremely low density to a downtown, or other core area. This transect allows for different development levels in different areas of the City. Large buildings would not be permissible on the outskirts of the City's boundaries but instead housing on larger lots in a more agricultural fashion. The reverse is true with a large empty lot being in the center of a downtown area.

c. Residential Development Goals, Objectives, and Policies

- i. Foster the growth of different uses for properties and also retain specific uses and structures, which have symbolic meaning.
- ii. Provide a variety of lot sizes and housing types.
- iii. Integrate new residential development with existing development as much as possible.
- iv. Promote residential designs, which foster the development of neighborhoods, that are visually attractive, and are protected from incompatible uses.
- v. Locate higher density development in close proximity to commercial and employment centers and accessible to major roads and public transportation.
- vi. Provide a variety of housing types within the City to accommodate the needs of households of all types and economic groups.

IV. Municipal Growth

a. Future Vision

- i. Brunswick is suited for growth more than the rural areas in the County jurisdiction.

ARTICLE 11: R-1 LOW DENSITY RESIDENTIAL DISTRICT

11.1 Intent:

The R-1 District is intended to provide an attractive, pleasant living environment at a sufficient enough density to maintain an adequate standard of physical maintenance and community service. The R-1 District encourages the compact development and the optimum utilization of land appropriate for residential use by encouraging higher density cluster and planned unit developments while simultaneously leaving sloping areas, floodplains and other unbuildable areas open and available for recreational and athletic purposes. The R-1 District discourages the intrusion of the commercial and industrial uses that so often have an annoying and deteriorating effect upon residential development.

11.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the R-1 District:

- A. Single- and two-family dwellings.
- B. Duplexes.
- C. Planned Unit Developments containing any combination of single-family, two-family, duplex, townhouse and multi-family dwelling units, subject to provisions of Section 21.5.
- D. Houses of worship.
- E. Public schools and private educational institutions.
- F. Public/governmental buildings and properties which are cultural, recreational, administrative or public service in nature, but not including storage yards, warehouses or garages.
- G. Parks, playgrounds and community centers.
- H. Fire and rescue services, provided that the property to be utilized is located adjacent to an existing or planned arterial road.
- I. Cemeteries.

11.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the R-1 District:

- A. Those buildings/structures and uses customarily accessory and incidental to the principal permitted uses and authorized special exceptions of the R-1 District.
- B. Parking, in accordance with Article 23.
- C. Fences, in accordance with Section 5.10.
- D. Private swimming pools, provided that an enclosure/barrier is installed as required by the Frederick County Building Code, and maintained to that level.
- E. Home occupations and resident professional offices in accordance with Section 5.11.
- F. Signs, in accordance with Article 22.

11.4 Special Exceptions:

The following buildings/structures and uses are permitted in the R-1 District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Child care centers, provided they meet the Child Care Administration's Licensing requirements for commercial child care facilities.

11.5 Height Restrictions:

No building/structure in the R-1 District may exceed forty feet (40') in height, except as provided by Section 21.3(C).

11.6 Lot Area, Width, and Setback Requirements of the R-1 District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD* SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Public utilities				30	50	30	
Single-family dwelling units	6,000	6,000	60	25	30	10	
Two-family*** dwelling units	6,000	3,300	60	25	30	12	
Duplex units	2,750	27		25	30	6	
Houses of worship				40	100	100	
Schools				40	100	100	
All others				30	50	30	

* As measured from the lot line (does not include a portion of the right-of-way).

** Corner lots shall provide two front yards and one side yard.

*** The conversion of existing single-family dwellings to two-family dwellings shall be permitted only when there is full compliance with lot size and setback requirements for two-family dwelling new construction.

ARTICLE 12: R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT & R-2MH MEDIUM DENSITY RESIDENTIAL - MOBILE HOME DISTRICT

12.1 Intent:

The R-2 District is intended to make the development of land with natural and locational advantages economically feasible by providing for higher densities of residential use. It is intended to increase the variety of housing types, while continuing to encourage the provision of the basic amenities of an attractive and safe residential environment. The R-2 District also recognizes historic areas of mobile home development and allows these dwelling types in areas designated R-2MH. The R-2 District encourages cluster and planned unit development and the increased density of all such developments, and recommends their location on relatively level land, at the edge of residential neighborhoods, and with good access to major highways, central shopping areas, schools and other public facilities which are most essential.

12.2 Principal Permitted Buildings/Structures and Uses:

The following buildings/structures and uses are permitted in the R-2 District:

- A. Those principal permitted buildings/structures and uses of the R-1 District.
- B. Multiple-family dwellings.
- C. Townhouses.
- D. Mobile homes, as defined in Article 4, in the R-2MH District only, provided that they meet the lot area, width and setback requirements for single-family dwellings in the R-2 District.
- E. Fire and rescue services, provided that the property to be utilized is located adjacent to an existing or planned arterial road.

12.3 Accessory Permitted Buildings/Structures and Uses:

The following accessory buildings/structures and uses are permitted in the R-2 District:

- A. Those uses customarily accessory and incidental to the principal permitted uses and authorized special exceptions of the R-2 District.
- B. Parking, in accordance with Article 23, except where otherwise expressly stated in this Article.
- C. Fences, in accordance with Section 5.10.

- D. Private swimming pools, provided that an enclosure/barrier is installed as required by the Frederick County Building Code, and maintained to that level.
- E. Home occupations and resident professional offices, in accordance with Section 5.11.
- F. Signs, in accordance with Article 22.

12.4 Special Exceptions:

The following buildings/structures and uses are permitted in the R-2 District with Board of Appeals approval only. Conditions of approval may be imposed by the Board of Appeals.

- A. Child care centers, provided they meet the Child Care Administration's Licensing requirements for commercial child care facilities.
- B. Boardinghouses, rooming houses and bed and breakfast establishments primarily for transients, provided that one (1) off-street parking space per unit is available. Lot areas, widths and setbacks must conform to those required for a multi-family dwelling unit.
- C. Nursing homes and domiciliary care/assisted living facilities, provided that one (1) off-street parking space is provided for each employee and for each three (3) patients to be cared for therein. Lot areas, widths and setbacks must conform to those required for a multi-family dwelling unit.
- D. Funeral homes, provided that ten (10) off-street parking spaces are provided in addition to those spaces needed for employees and for service vehicles used in the operation of the business.

12.5 Height Restrictions:

No structure in the R-2 or R-2MH District may exceed forty feet (40') in height, except as provided by Section 21.3(C).

12.6 Lot Area, Width, and Setback Requirements of the R-2 District

PRINCIPAL PERMITTED AND SPECIAL EXCEPTION USES	MINIMUM LOT AREA (SQ. FT.)	MINIMUM LOT AREA PER DWELLING UNIT OR USE (SQ. FT.)	MINIMUM LOT WIDTH (FT.)	FRONT YARD* SETBACK (FT.)	REAR YARD SETBACK (FT.)	SIDE YARD** SETBACK (FT.)	OTHER SETBACK REQUIREMENTS
Single-family dwelling units	5,000	5,000	50	25	30	6	
Two-family dwelling units	5,550	2,750	50	25	25	6	
Duplex units	2,750		27	25	30	6	
Townhouses	1,800	3,500***	18	25	30	10****	
Multi-family dwelling units	12,000	4,000*****	50	25	25	10	
All others				40	50	20	

* As measured from the lot line (does not include a portion of the right-of-way).

** Corner lots shall provide two front yards and one side yard.

*** The difference between minimum lot area and minimum lot area per dwelling unit square footage may be devoted to open spaces.

**** Side yard setbacks pertain to end units only. When clustering a group of townhouses, one end unit shall be no closer than twenty feet (20') to the next group.

***** Does not include street right-of-way or parking areas.



CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

BOARD OF APPEALS Special Exception Application

Application Date: 6/30/2023 Date of Next BOA Hearing: July 27, 2023 Docket No.: BR-BoA-SE-23-01

Name of Property Owner: Sunfish Partners *continued*
Name of Applicant: Mooseheart Lofts LLC
Applicant's present legal interest in property:
 Owner Contract Purchaser
 Lessee Contract Lessee
 Other

Subdivision: 0000 Date: 6/29/2023
Location of Property: North of E Potomac St and West of 4th Ave
N S E W Side of Road, N S E W Side of Nearest Intersecting Road)
Property Address: 401 E - 403 Potomac St., Brunswick MD
Tax Map No.: 101A Parcel No.: 0978 Lot No.:
Dimensions of Lot: 50' x 125' Total Sq. Footage: 7278 Sq Ft
Zoning District: R1

Ordinance Section and Subsection (if any) permitting the special exception:

Description of proposed special exception use: Building previously used as Moose Lodge
to be converted into multi-family residential market-rate apartments, a mix of 1 and 2
bedroom units with on-site amenities, up to 16 units total.

Previous BOA Case Number (if applicable):

I hereby affirm that all of the statements and information contained herein or filed with this appeal is true and correct.

Signature of Applicant: [Signature]
Address of Applicant: 18000 Georgia Ave., Olney MD 20832
Phone Number: (H) 410 352 4131 (W) 410 852 4131

Sworn to and subscribed before me this 29th day of June
My commission expires: 09/10/2023 Signature: [Signature]
KAREN L FENNINGTON
NOTARY PUBLIC
FREDERICK COUNTY
MARYLAND
MY COMMISSION EXPIRES SEPTEMBER 10, 2023

File #: BR-BDA-SE-23-01

Plan Name: Mooseheart Lofts LLC

AFFIDAVIT IN COMPLIANCE WITH BRUNSWICK ZONING ORDINANCE

On this 30th day of June, 2023,

before me the subscriber, a Notary Public of the State and County aforesaid;

personally appeared Ozgun Deniz

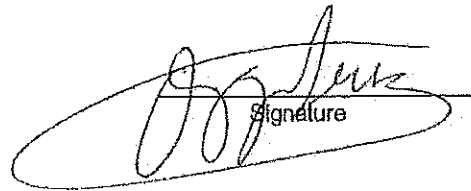
and made oath in due form of law as follows:

That I posted at least twenty (20) days prior to the hearing scheduled for

July 27, 2023 on the above captioned case, those sign(s) were
(Hearing date)

erected on the subject property in ordinance with the required distances and

positioning as set out in the above Ordinance.


Signature

Subscribed and sworn to before me the day and the year first above written.


NOTARY PUBLIC

SEAL

KAREN L FENNINGTON
NOTARY PUBLIC
FREDERICK COUNTY
MARYLAND
MY COMMISSION EXPIRES SEPTEMBER 10, 2023

My Commission expires: 09/10/2023

JUSTIFICATION STATEMENT

Property Address: 401-403 E Potomac St. Brunswick MD
Prior/Current Use: Moose Lodge (Social Club and Entertainment Hall)
Proposed Use: Multi-Family Residential and Mixed Restaurant Space
Requester: Mooseheart Lofts LLC, under Contract to Purchase

We are requesting a special exemption to convert the 'Royal Moose Lodge' ("Moose Lodge") located at 401-403 E Potomac St into a mixed-use building.

For decades, the Moose Lodge used to be a social hall with entertainment and a full commercial kitchen/restaurant. Since its closing, we are proposing to develop it into an up-market multi-family apartment building.


Our proposal calls for up to sixteen (16) loft apartments, market-rate 1- and 2-bedroom units. The building plans call for offering to tenants the following facilities: on-site laundry facilities, additional storage cages, meeting/recreation room, gym, and a rooftop deck.

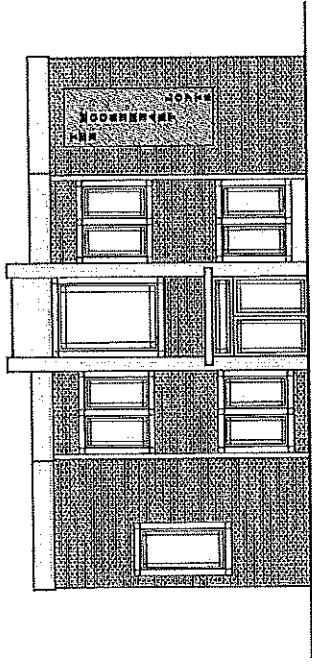
Brunswick is home to many recent new developments to its north and west that has added many town- and single-family homes. Missing are 'starter' living units in the form of apartments. A lack of attractive apartments in the town will force younger people starting out in life to move out of the town, many times permanently, depriving the town of a vibrant population that can eventually put their roots down in the town by purchasing the newly-built homes and town-homes.

About Us:

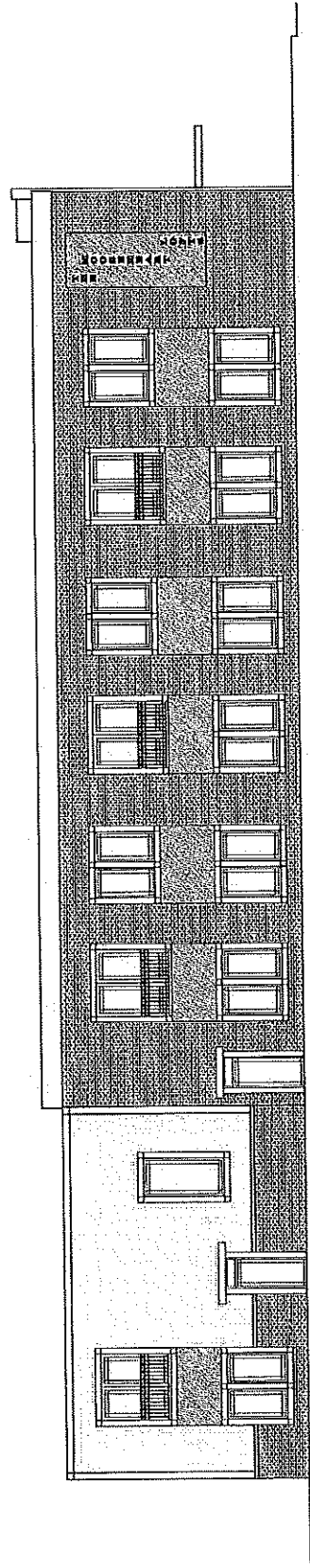
We are life-long Maryland residents with assets and businesses in Montgomery, Frederick, Howard, Baltimore, and PG Counties. With our proposed investment in Brunswick via our purchase and upgrade of the Moose Lodge, we are making long-term commitment to Brunswick and its future aspirations.

Architects: LBM Design Group, Hagerstown MD
Surveyors: Unger Surveying and Construction, Waynesboro PA
Civil Engineers: Kyle Unger, PE.
Structural Engineers: ETA Engineers


 DESIGN GROUP 240-387-8334	ADDRESS 401 E. Potomac Street Brunswick, MD	PROJECT NO. DT-091	DRAWING TITLE MOOSEHART LOFTS PROPOSED FRONT ELEVATION	SHEET No. A1
	DATE 5-4-23	DRAWN BY LAM	PROJECT MOOSEHART LOFTS PROPOSED FRONT ELEVATION	SHEET No. A1

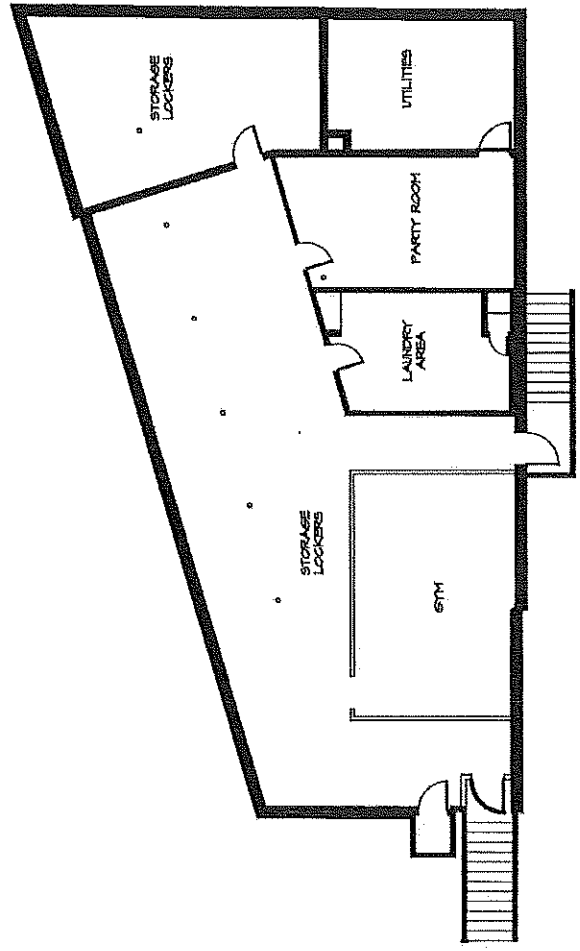


1 | PROPOSED POTOMAC STREET ELEVATION
 A1 | 3/8" = 1'-0"



2 | PROPOSED POTOMAC STREET ELEVATION
 A1 | 3/8" = 1'-0"

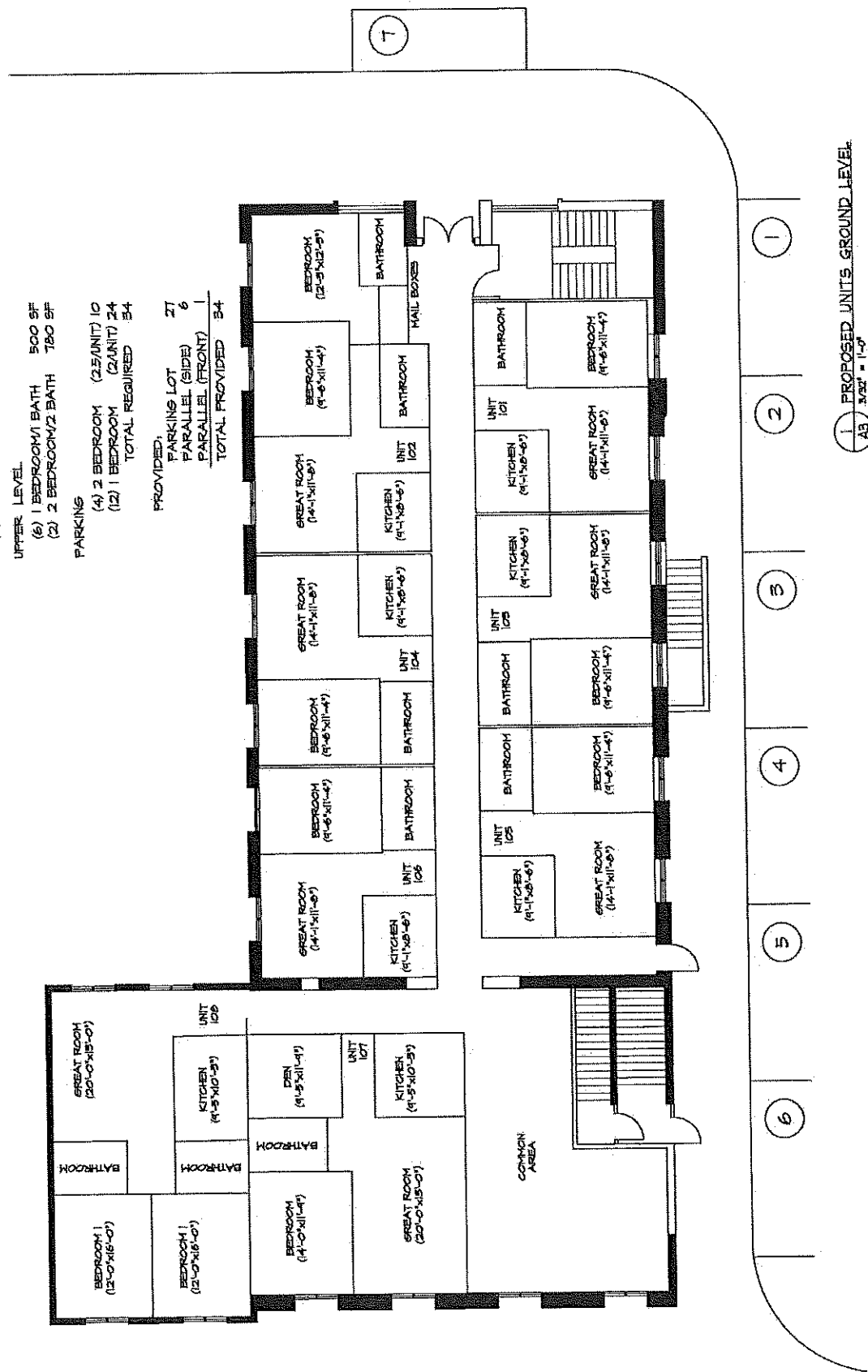
 DESIGN GROUP 240-882-8334	ADDRESS 401 E Potomac Street Brunsick, MD	DRAWN BY: JLM	PROJECT: Mooseheart Lofts DRAWING TITLE: LOWER LEVEL	SHEET No. A2
		DATE: 5-1-23		



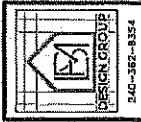
1 PROPOSED LOWER LEVEL
 5/22' = 1'-0"
 A2

UNIT CHART

GROUND LEVEL	
(6) 1 BEDROOM/1 BATH	500 SF
(2) 2 BEDROOM/2 BATH	780 SF
UPPER LEVEL	
(6) 1 BEDROOM/1 BATH	500 SF
(2) 2 BEDROOM/2 BATH	780 SF
PARKING	
(4) 2 BEDROOM (2.5/UNIT) 10	
(2) 1 BEDROOM (2/UNIT) 24	
TOTAL REQUIRED	54
PROVIDED:	
PARKING LOT PARALLEL (SIDE)	27
PARKING LOT PARALLEL (FRONT)	6
TOTAL PROVIDED	34



1 AB PROPOSED UNITS GROUND LEVEL
 3/8" = 1'-0"



240--362-8354

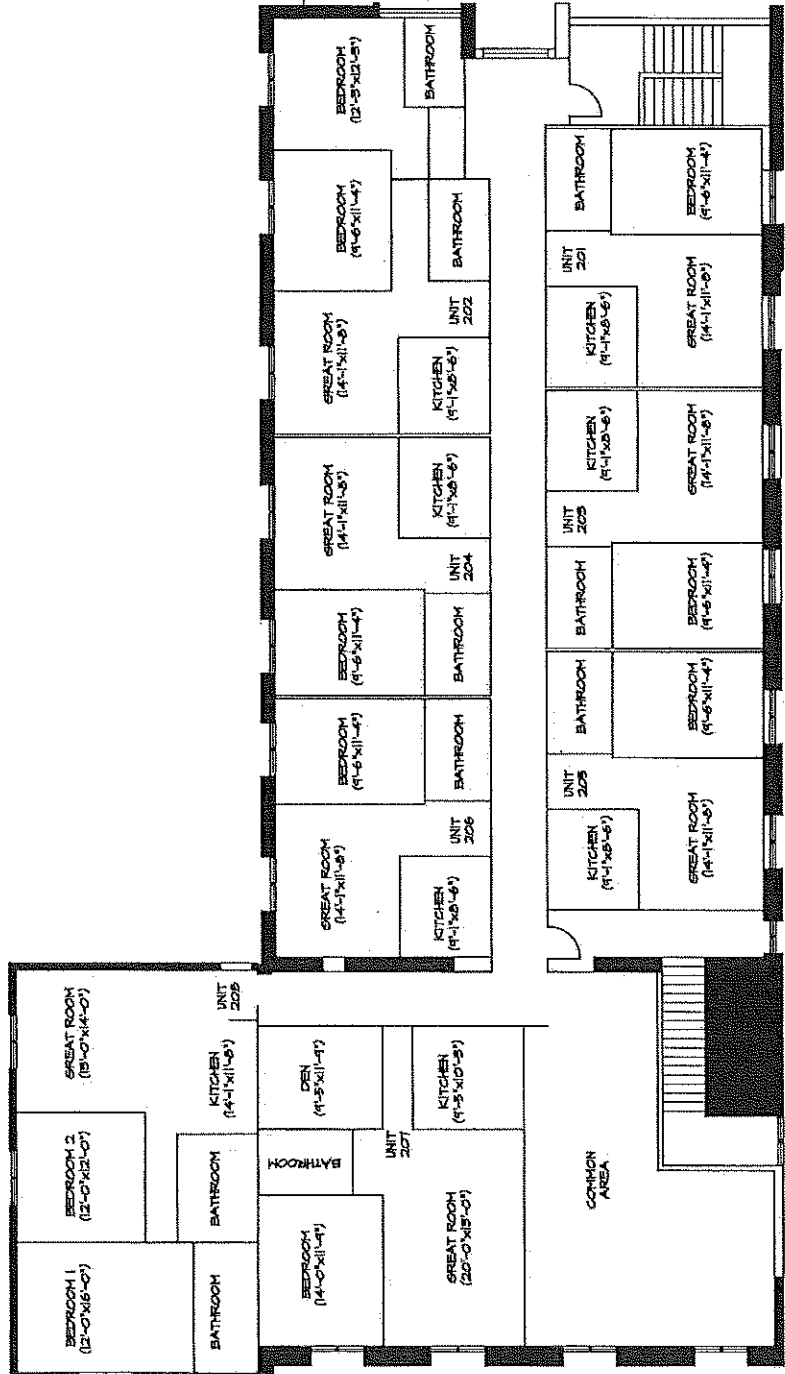
401 M Potomac Street
Brunswick, MD

ADDRESS

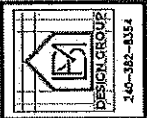
PROJECT NO.	07-691
DATE	5-1-23
ISSUE NO.	

PROJECT:	Moosehart Lofts
DRAWING TITLE:	UPPER LEVEL

SHEET No.	A4
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1 PROPOSED UNITS UPPER LEVEL
3/32" = 1'-0"



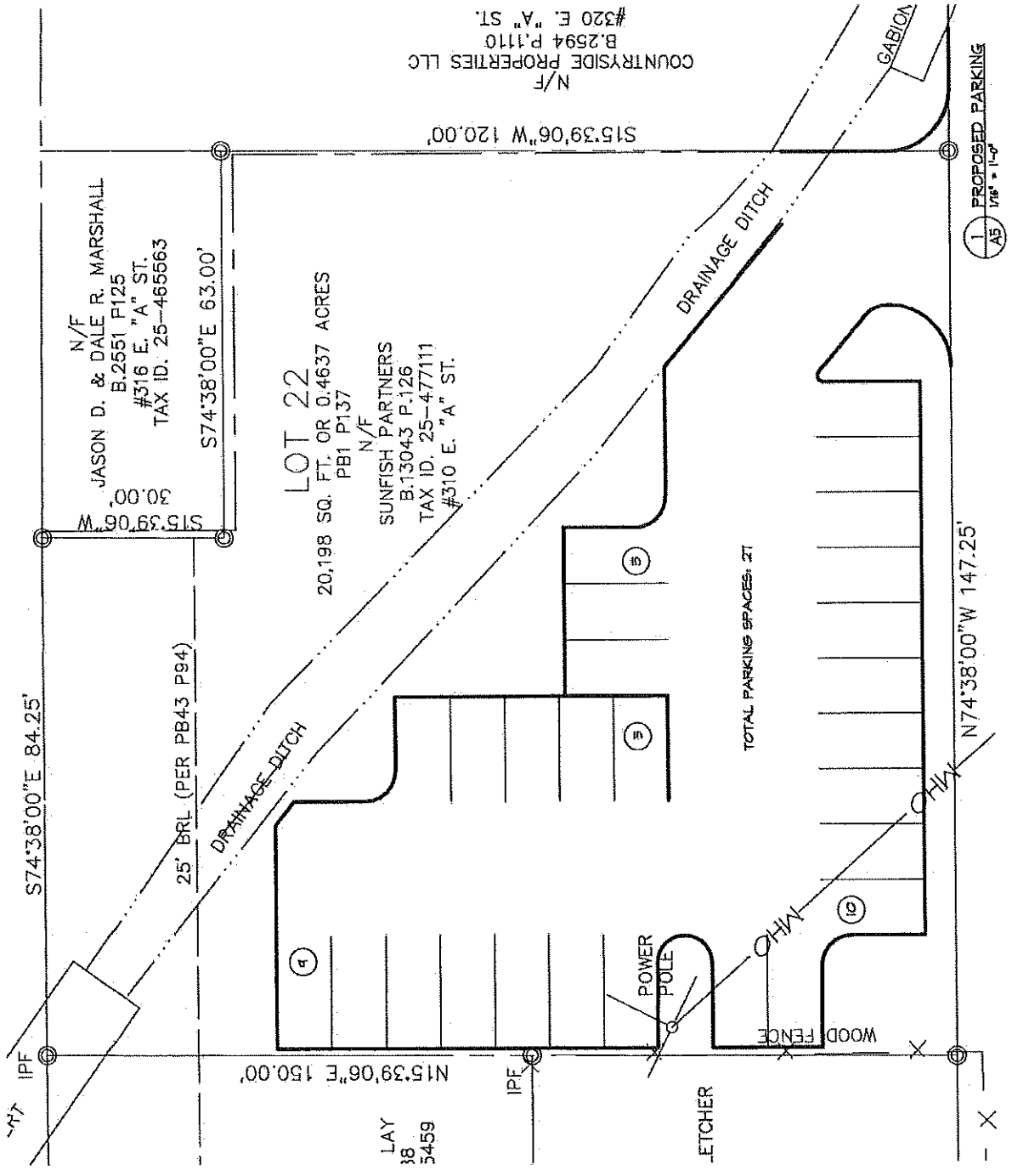
401 E. Potomac Street
Brunswick, MD

ADDRESS

PROJECT NO.	027-001
DATE	5-8-23
DRAWN BY	LAB

PROJECT: Mooseheart Lofts
 DRAWING TITLE: ADJACENT PARKING LOT

SHEET No. **A5**



LAY
38
5459







E A St

Third Ave

Fourth Ave

Epifomac St

224

9

7

10

8

16

320

315

319

321

401

405

409

404

404

412

416

301

303

305

307

309

311

315

317

319

321

323

325

401

300

308

405

407

409

411

417

413

415

417

419

421

42



CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

Board Of Appeals Filing Procedures

1. Proper application must be made in the Planning & Zoning Office, City Hall. Application forms will be sent upon request. **NOTE: INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED FOR PROCESSING!**
2. If person filing the appeal is other than the owner, an affidavit or ownership authorizing said person to make the appeal must be filed. If person filing the appeal is contract purchaser, a copy of the contract must be filed. If person filing the appeal is a lessee, an affidavit of ownership and a copy of lease must be filed.
3. Names and addresses of **ALL** person owning property within 300' of **ALL** sides of the subject property **MUST** be supplied at the time of filing **BY THE APPLICANT** on proper form supplied by this office.
4. A fee of: SPECIAL EXCEPTION REQUEST - ~~\$1100~~ ^{\$1400}; VARIANCE REQUEST - \$725; CLAIM OF ADMINISTRATIVE ERROR - ~~\$675~~ ^{\$875}. These fees are to cover the cost of the newspaper notice, the placard, notices to adjoining property owners and review expenses. If paid by check. Check is to be made to City of Brunswick.
5. Placard announcing hearing date will be given to applicant within time prescribed in the Zoning Ordinance, supplied by the Planning & Zoning Office.
6. **MUST** have plat or accurate drawing of property, showing distance of structure from all property lines, 15 copies are needed, plat to be folded to 8 ½" X 11" size. Most applicants prepare a Justification Statement addressing the general and specific Ordinance Requirements of the proposal, and then attach it to the application when it is submitted to the office.
7. Board of Appeals Members will make an on-site inspection of the property prior to the public hearing.
8. A newspaper notice will be published by this office 7 and 14 days prior to the hearing. Notices to the adjacent property owners within 300' of the property will also be sent out at this time.
9. Applicant or agent for the applicant **MUST** be present at the hearing to present case before the Board of Appeals.
10. Applicant will be formally notified in writing of the decision by the Board of Appeals. If case is approved, you may apply for a Zoning Certificate at this office. If case is disapproved, the applicant has thirty (30) days to appeal this decision to the Circuit Court.

CITY of BRUNSWICK MARYLAND
Board of Appeals
Hearing Dates and Deadlines 2023

Hearing Date	Deadline Date	Sign Posted
December 22, 2022	November 22, 2023	December 2, 2023
January 26, 2023	December 26, 2023	January 6, 2023
February 23, 2023	January 23, 2023	February 3, 2023
March 23, 2023	February 23, 2023	March 3, 2023
April 27, 2023	March 27, 2023	April 7, 2023
May 25, 2023	April 25, 2023	May 5, 2023
June 22, 2023	May 22, 2023	June 2, 2023
July 27, 2023	June 27, 2023	July 7, 2023
August 24, 2023	July 24, 2023	August 4, 2023
September 28, 2023	August 28, 2023	September 8, 2023
October 26, 2023	September 26, 2023	October 6, 2023
November 16, 2023	October 16, 2023	October 27, 2023
December 28, 2023	November 28, 2023	December 8, 2023

Please Note:

The Board will generally conduct the required site visits on an individual basis unless the Chair schedules a Board Site Visit. Immediately prior to their scheduled hearing, the Board will meet to consult with Staff and/or their attorney with regard to legal and ordinance issues that arose as a result of their site visits.

Indicate revised dates due to conflicting holiday dates.

**NOTICE OF PUBLIC HEARING
BOARD OF APPEALS
BRUNSWICK, MARYLAND**

Notice is hereby given that the City of Brunswick Board of Appeals will hold a Public Hearing on Thursday, July 27, 2023, at the hour of 6:00 P.M. in the Second Floor Meeting Room, City Hall, 1 West Potomac Street, Brunswick Maryland on the following case for public comment and a vote:

**BR-BOA-23-01-SE Adaptive Reuse multi-family – Mooseheart Lofts LLC
Request for Special Exception to allow adaptive reuse in a non-residential
building in the R-1 Zone to establish multi-family use as permitted in R-2 Zone
per 11.4 (B) of the Zoning Ordinance, at 401- 403 E Potomac Street. (SDAT
25-477138, Parcel 0978, Plat 44/44 and SDAT 25-477111, Parcel 1035, Lot 22,
Plat 43/94). Zoned R-1**

All parties in interest and citizens shall have an opportunity to be heard at said time and place. The Board will require reasonable time limits on presentations in order to efficiently review all applications. Applicant presentations will be limited to twenty (20) minutes. Public comments will be limited to four (4) minutes for individuals and ten (10) minutes for bonafide organizations. The Chair may extend these times upon good cause shown. Written comments will be accepted prior to and at the hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

BRUCE R. DELL
PLANNING DIRECTOR

Date of Publication: Thursday, July 13, 2023, and
Thursday, July 20, 2023
as required by the Zoning Ordinance Section 24.8.A.6

Questions: Contact Bruce Dell, Planning Director, at City Hall, 301-834-7500 ext 300.



THE
CITY OF BRUNSWICK
MARYLAND

1 WEST POTOMAC STREET · BRUNSWICK, MARYLAND 21716 · (301) 834-7500

Date: July 27, 2023
RE: Case # BR-BOA-23-01-SE --
- Continued

NOTICE TO ADJACENT PROPERTY OWNERS WITHIN 300 FEET

Notice is hereby given that the City of Brunswick Board of Appeals will hold a Public Hearing on Thursday, July 27, 2023, at the hour of 6:00 P.M. in the Second Floor Meeting Room, City Hall, 1 West Potomac Street, Brunswick Maryland on the following case for public comment and a vote:

Request for Special Exception to allow adaptive reuse in a non-residential building in the R-1 Zone to establish multi-family use as permitted in R-2 Zone per 11.4 (B) of the Zoning Ordinance, at 401- 403 E Potomac Street. (SDAT 25-477138, Parcel 0978, Plat 44/44 and SDAT 25-477111, Parcel 1035, Lot 22, Plat 43/94). Zoned R-1

This will be the first case scheduled for the evening.

All Parties in interest and citizens shall have an opportunity to be heard at said time and place. The Board of Appeals will require reasonable time limits on presentations to efficiently review all applications. Applicant presentations will be limited to twenty (20) minutes. Public comments will be limited to four (4) minutes and ten (10) for bonafide organizations. The Chair may extend these times upon good cause shown. Written comments will be accepted prior to and at the hearing. Comments may be directed to planner@brunswickmd.gov.

BRUCE R. DELL
PLANNING DIRECTOR

CC: B/A Members – G. Williams, S. White & W. Stull
Dave Severn – City Attorney
Nathan Brown – Mayor
Julie Martorana – City Administrator



THE
CITY OF BRUNSWICK
MARYLAND

1 WEST POTOMAC STREET · BRUNSWICK, MARYLAND 21716 · (301) 834-7500

Date: July 27, 2023

RE: Case # BR-BOA-23-01-SE - Continued

NOTICE TO APPLICANT

A request that applies to the property located at 401 E Potomac Street, Brunswick Maryland (Tax Map 101A, Parcel 978 and 1035) has been filed by Mooseheart Lofts LLC – Applicant to request a Special Exception for a: non-residential building in the R-1 Zone establish multi-family use as permitted in R-2 Zone per 11.4 (B) of the Zoning Ordinance. The property is in a R-1 Zoning District.

The public hearing will be held on Thursday July 27, 2023, to address the above case at the hour of 6:00 P.M. in the Second Floor Meeting Room, City Hall Brunswick, Maryland at which time citizens wishing to be heard will be recognized in public session.

This will be the 1st case scheduled for the evening.

All Parties in interest and citizens shall have an opportunity to be heard at said time and place. The Board of Appeals will require reasonable time limits on presentations to efficiently review all applications. Applicant presentations will be limited to twenty (20) minutes. Public comments will be limited to four (4) minutes and ten (10) for bonafide organizations. The Chair may extend these times upon good cause shown. Written comments will be accepted prior to and at the hearing.

BRUCE R. DELL
PLANNING DIRECTOR

CC:

BOA Members - G. Williams; S. White & W. Stull

Nathan Brown - Mayor

Julie Martorana- City Administrator



THE
CITY OF BRUNSWICK
MARYLAND

1 WEST POTOMAC STREET · BRUNSWICK, MARYLAND 21716 · (301) 834-7500

June 30, 2023

NOTICE TO ALL MEMBERS OF THE BOARD OF APPEALS

The next meeting of the Board of Appeals of the City of Brunswick will be held on Thursday, July 27, 2023, at the hour of 6:00 P.M. in the Second Floor Meeting Room, City Hall, Brunswick, Maryland.

BR-BOA-23-01 SE Adaptive Reuse to establish Multi-Family – 401 E Potomac Street, Brunswick MD

Request for Special Exception to allow adaptive reuse in a non-residential building in the R-1 Zone to establish multi-family use as permitted in R-2 Zone per 11.4 (B) of the Zoning Ordinance, at 401- 403 E Potomac Street. (SDAT 25-477138, Parcel 0978, Plat 44/44 and SDAT 25-477111, Parcel 1035, Lot 22, Plat 43/94). Zoned R-1

BRUCE R. DELL
PLANNING DIRECTOR

BOA Members - G. Williams; S. White & W. Stull

CC:

Dave Severn – City Attorney

Nathan Brown - Mayor

Julie Martorana- City Administrator