

**Applicant's Verified Statement Satisfying Application Criteria for
Amendment to Approved Growth Allocation Decision Concerning Condition 61 –
Requirement for a Street Connection to Yacht Club Road**

Format of Application: Citations to Sections and text from the Amendments to Growth Allocation from Ordinance No. 357 appear in bold. The Applicant's responses appear in regular text.

Section 348-28.G.(1)(a) – Conditions for Filing a Growth Allocation Amendment Application

This Growth Allocation Amendment Application (the "Application") relates to an "Approved Growth Allocation Decision" dated March 17, 2006, as amended on March 22, 2006.

Section 348-28.G.(1)(b)

The Applicants are as follows:

Legal and equitable owner of the land:

Miles Point Property, LLC
c/o Managing Member, George Valanos
1228 Thirty-First St., NW
Washington, DC 20007
gvalanos@midlandco.net

Developer:

TND Development, Inc.
c/o George Valanos, President
1228 Thirty-First St., NW
Washington, DC 20007
gvalanos@midlandco.net

Section 348-28.G.(1)(c)

The Approved Growth Allocation Decision is subject to an appeal pending in the Circuit Court for Talbot County in the matter known as the Petition of Bruce P. and Ann L. Bedford, et al., Case No. 20-C-06-005654. A final decision has not been rendered on this appeal; therefore, the Approved Growth Allocation has not been rendered invalid and remains valid as of the date of this application.

Section 348-28.G.(1)(d)

This Proposed Amendment does not alter the Concept Plan in any respect. By way of background, Exhibit 6 hereto is the Concept Plan that was approved in connection with the Approved Growth Allocation Decision. Exhibit 7 hereto is the Applicant's TND Sketch Plan that has been submitted in connection with its pending Application for a TND zone designation. There are minor differences between Exhibits 6 and 7 that were made to address Conditions imposed by the Commissioners in the Approved Growth Allocation Decision, including, but not limited to, the portion of Condition 61 requiring the Applicant to reconfigure potential street connections from the Proposed Project to Yacht Club Road from those shown in the original Concept Plan (Exhibit 6) to increase the chances of having one or more street connections approved by Talbot County. Because the nature of this Proposed Amendment is simply to remove the requirement that there shall actually be established at least one (1) public street connection between the Proposed Project and Yacht Club Road (i.e., the Applicant cannot control approval of the street connection), but the requirement that the Applicant shall be required to pursue one or more street connections (from the Town of St. Michaels, rather than Talbot County) shall remain in place, none of these changes between Exhibit 6 and Exhibit 7 are relevant to this Proposed Amendment. In fact, Exhibit 7 re-locates potential street connections to Yacht Club Road in a manner that was encouraged by the Commissioners and/or Planning Commission.

(d)[1]

The Proposed Amendment does not materially change the location or the area of the land included in the Approved Concept Plan.

(d)[2]

The Proposed Amendment does not increase the maximum number of dwelling units.

(d)[3]

The Proposed Amendment does not increase the average number of dwelling units per acre.

(d)[4]

The Proposed Amendment does not increase the maximum land area to be devoted to commercial uses.

(d)[5]

The Proposed Amendment does not increase the maximum interior floor space to be devoted to commercial uses.

(d)[6]

The Proposed Amendment does not reduce the combined width of tidal and non-tidal buffer and setback areas extending landward of the mean high water line.

(d)[7]

The Proposed Amendment does not reduce the combined area of tidal and non-tidal wetland buffer and setback areas extending landward of the mean high water line.

(d)[8]

The Proposed Amendment does not change the nature or increase the extent of any structures proposed to be located within the tidal or non-tidal wetland buffer or setback areas.

(d)[9]

The Proposed Amendment does not reduce the land area to be devoted to open space as contemplated by the Approved Growth Allocation Decision.

(d)[10]

The Proposed Amendment does not impact the habitat protection areas.

Section 348-28.G.(1)(e)

This Proposed Amendment does not seek to change a finding of fact or a conclusion from the Approved Growth Allocation Decision. Rather, the Applicant seeks to remove that aspect of Condition 61 requiring a public street connection from the Proposed Project to Yacht Club Road because the Applicant believes that the Commissioners included this Condition based upon a belief that the decision whether to permit a public street connection from the Proposed Project to Yacht Club Road rested with Talbot County. Since the date of the Approved Growth Allocation Decision, however, the Applicant has submitted an Annexation Agreement to the Town and related documents (Exhibit 9 (2008 Annexation Agreement), Exhibit 10 (Annexation Plat), Exhibit 11 (2008 Public Facilities Agreement) and Exhibit 12 (Applicant's Irrevocable Consent to Amendment of Development Rights and Responsibilities Agreement)), all of which propose to incorporate into the Town, among other things, the entire portion of Yacht Club Road that would be impacted from a public street connection from the Proposed Project to Yacht Club Road. Each of Exhibits 9 through 12 have been submitted as binding conditions for TND zone approval for the Proposed Project in connection with the Applicant's request for TND zoning. See Applicant's TND Exhibits 69A through 69C (public records of the Town).¹ Because, by virtue of the Applicant's proposed annexation terms, the Town has control over whether to annex Yacht Club Road and whether to permit one or more connections from the Proposed Project to Yacht Club Road, the aspect of Condition 61 that the Applicant seeks to remove is no longer

¹ Please note that a typographical error in TND Exhibit 69A has been corrected in Exhibit 9 hereto. Exhibit 9 will be supplemented into the Applicant's TND zone designation record.

warranted. The remaining terms of Condition 61 shall remain in place. Solely for the Commissioners' discretionary consideration, and subject to any revision deemed appropriate by the Commissioners, the Applicant has drafted a proposed, revised Condition 61 which appears as Exhibit 13 hereto.

Section 348-28G.(2) – Filing of Growth Allocation Amendment Application

Section 348-28G.(2)(a)

The Applicant has submitted fifteen (15) copies of the instant Application which is verified under oath. See pages 8, 9 and 10 hereof.

(a)[1]

The Applicants are identified by name, address and telephone number in response to Section 348-28G.(1)(b) at page 1 hereof.

Legal counsel for the Applicants is as follows:

Richard A. DeTar
Miles & Stockbridge, P.C.
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Easton, MD 21601
(410) 820-0224
rdetar@milesstockbridge.com

(a)[2]

The land which is the subject of the Proposed Amendment Application consists of approximately 71.578 acres, more or less, (proposed to be reduced to 71.248 as a result of a right-of-way dedication along Yacht Club Road as explained in the Site Statistics, Exhibit 1 hereto). The Subject Property was acquired by Miles Point Property, LLC through a deed dated August 11, 2004 from Harry C. Meyerhoff, recorded among the Land Records of Talbot County, Maryland in Liber 1268. folio 312 and is identified on Tax Map 23, Grid 20, Parcel No. 111. There is no current street address available for the subject land which has no residential dwellings or other improvements on it and which fronts on Maryland State Route 33 and Yacht Club Road. The land is also bisected by Perry Cabin Drive with approximately 89% (64.611 acres) of the land being located north of Perry Cabin Drive and the remaining 11% (7.392), more or less being located south of Perry Cabin Drive.

(a)[3]

The Commissioners' Approved Growth Allocation Decision is contained in a 165 page decision dated March 22, 2007, Exhibit 5 hereto. The grounds for approval are contained in pages 1-134 A Table of Contents is contained on pages i through iii which lists the pages within the Decision

