

IN THE MATTER OF * BEFORE THE CECIL COUNTY
THE APPLICATION OF * BOARD OF APPEALS
ROGER M. DAVIS * CASE NO.: 3819
(Special Exception – NAR) *

* * * * *

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Roger M. Davis (the “Applicant”). The Applicant seeks to obtain a special exception to host a festival at property that owned by Flying Plow Farm located at 96 C. Johnson Farm Lane, Rising Sun, MD 219211, consisting of approximately 56 acres and designated as Parcel 256, Block 14, Lot 1 on Tax Map 10 in the Sixth Election District of Cecil County (the “Property”), in an area zoned Northern Agricultural Residential (“NAR”) in accordance with Article V, Part V, Section 102 of the Cecil County Zoning Ordinance (the “Ordinance”).

Section 102 of the Ordinance provides:

Section 102: Festivals and Events

Festivals or events may be permitted as a Special Exception in the NAR and SAR zones and shall be permitted in the BG, BI, MB and OS zones provided:

1. The proposed site shall be of sufficient size to accommodate the use without adversely affecting adjacent land uses.
2. No temporary sanitary facility or trash receptacle may be located within 200 feet of an existing dwelling; no tent shall be located within 250 feet of an existing dwelling.
3. A drawing to scale shall accompany the application and shall accurately depict the standards of this section.
4. Seasonal business uses shall not exceed a total of 180 days in any 12 consecutive months.
5. Activity areas shall be at least 500 feet from a residential district.

6. A minimum of one parking space shall be provided for every 500 square feet of ground area of the total site.

Applicant appeared and testified in favor of the application. Applicant testified that he is seeking a special exception to host an agri-tourism festival at the Property. The festival will promote Flying Plow Farm, Aerie Farm Lamb, and Firetower Farm Brewery. The event will be a one day event on September 30, 2017 from Noon until 7:00 p.m. The event will feature locally produced food and beverages and will seek to promote the agriculture of Cecil County. Food will be prepared onsite for on and offsite consumption. No open containers will be permitted to leave the event area, and all beverages sold for offsite consumption will be in sealed containers. Parking will be available on the Property with space for over 150 vehicles. Applicant submitted with the application a photo depicting the proposed area of the festival on the Property.

No further witnesses testified in favor or in opposition to the application.

Stephen J. O'Connor, Zoning Administrator of the Cecil County Department of Planning and Zoning, testified that the Office of Planning and Zoning Staff and the Planning Commission each recommended approval of the special exception.

Pursuant to Section 102 of the Ordinance, the Board finds that the Property is located within the NAR zone. The Board further finds that a 56 acre parcel is of sufficient size to accommodate the hosting of events without adversely affecting neighboring land uses. Applicant has submitted an appropriate drawing to scale demonstrating that the applicable distance requirements and restrictions will be satisfied. Further, the size of the Property will allow for the parking requirements to be satisfied. The Applicant's contemplated scheduling of a single day event would satisfy the limitation on number of days that the venue may be in operation.

Pursuant to Section 311 of the Ordinance, the Board finds as follows:

1. The special exception is not detrimental or an endangerment to the public health, safety, or general welfare. The proposed use is on a Property in an area suitable to the use. The Property consists of approximately 56 acres, which provides well enough space for the proposed use and that the nature of the use itself is not inherently injurious to the public health, safety, or general welfare.

2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, or substantially diminish or impair property values in the neighborhood. The size of the Property allows for adequate distance between the location of the activity and neighboring parcels such that peaceful use and enjoyment of the neighboring parcels should not be affected.

3. The use will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the zone. The Board does not find that the hosting of events on one day in September is an impediment to the preservation of the character of the area or to the reasonable and orderly residential development permissible within the NAR zone.

4. Nothing in the record indicates that the proposed use will overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. The Property will use temporary restroom facilities, so public sewer will not be affected, and the Board finds nothing in the record to indicate that other public facilities and services will be overly burdened by the proposed use.

5. The proposed use will not adversely affect critical natural areas or areas of ecological importance because the Property is not located in a Critical Area District.

6. The proposed use will, in all other respects, conform to the applicable regulations

of the zone in which it is located. Based upon the evidence presented, the hosting of events as contemplated by Applicant is not inconsistent with neighboring uses.

7. The particular use proposed at the particular location proposed will not have any adverse effects above those inherently associated with such special exception use, irrespective of its location in the zone. *Schultz v. Pritts*, 291, Md. 1 (1981). The Board finds that, because of the residential density of the zone and the nature of the activities undertaken in the area, the impact of Applicant's proposed hosting of an event in this particular area of the NAR zone is no different than the hosting of events in other areas of the NAR zone.

8. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets. No evidence was presented evincing issues related to traffic and parking. Ingress and egress would be to a county road, and the size of the Property would allow for sufficient parking.

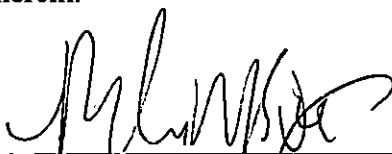
9. The use is not contrary to the objectives of the Comprehensive Plan for the County. The special exception is presumptively valid and the Board finds nothing in the record to indicate that the proposed use is contrary to the objectives of the Comprehensive Plan.

For the reasons stated above, by unanimous vote, the Board is satisfied that the requirements of Article V, Part V, Section 102, and Article XVII, Part II, Section 311, of the Ordinance have been met and the application for the special exception to host festivals or events on the Property is therefore **APPROVED**.

All Applicants are hereby notified that they are required to obtain any and all necessary licenses and permits required for the use described herein.

8/29/17

Date


for _____
Mark Saunders, Chairman

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: July 2017
 FILE NO. 819

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL ()
- SPECIAL EXCEPTION (X)
- VARIANCE ()
- APPEAL ()

DATE FILED: 6/15/2017
 AMOUNT PD: \$250 cash
 ACCEPTED BY: JB

A. APPLICANT INFORMATION

Roger M. Davis
 APPLICANT NAME – PLEASE PRINT CLEARLY
785 Firetower Road Colora MD 21917
 ADDRESS CITY STATE ZIP CODE
215-847-3478
 APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Flying Plow Farm
 PROPERTY OWNER NAME – PLEASE PRINT CLEARLY
96 C Johnson Farm Lane Rising Sun MD 21911
 ADDRESS CITY STATE ZIP CODE
443-686-9786
 PROPERTY OWNER SIGNATURE PHONE NUMBER

C. PROPERTY INFORMATION

96 C Johnson Farm Ln Rising Sun, MD 21911 06-053580
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
0010 0014 0256 1 56 NAR
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

D. PURPOSE OF APPLICATION – Indicate reasons why this application should be granted. (attach separate sheet if necessary)

Allow for a Special Exception to the Zoning Ordinance Article V, Part V, §102 (5.06.000) to allow an agri-tourism event to promote the business and products of Flying Plow Farm Stand and Community Supported Agriculture, Airlie Farm Lamb, and Firetower Farm Brewery during which food and beverages, including beer (produced by Firetower Farm Brewery) will be sold for both on and off-site consumption. Please see the attached sheet for additional information.

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNINATION

Is property in the Critical Area? YES X NO
 If yes, Pertinent provision of the Chesapeake Bay Critical Area Program:
 Is property in the 100 year Floodplain? YES X NO
 Is property an Agricultural Preservation District? X YES ~~X~~ NO
 If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE: Article V, Part V, §102 (5.06.000); Art XVII, Part I, §311

H. SPECIAL EXCEPTION RENEWAL – PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: NA

I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME – Please fill out the following information:

Will unit be visible from the road? If yes, distance:
 Will unit be visible from adjoining properties? If yes, distance:
 Distance to nearest manufactured home: Size/Model/Year of
 Unit:
 Number of units on property at present time:

DRAFT

Board of Appeals Application for Special Exception to County Zoning Ordinance Article V, Part V, Section 102 (5.06.000) on behalf of Roger Davis, Firetower Farm Brewery (785 Firetower Road, Colora, MD 21917), Flying Plow Farm (96 C Johnson Farm Lane, Rising Sun, MD 21911), and Arlie Lamb Farm (XXX)

6/15/2017

Dear Board of Appeals,

Flying Plow Farm, Airlie Farm Lamb, and Firetower Farm Brewery want to host an agri-tourism event on the premises of Flying Plow Farm (96 C Johnson Farm Lane, Rising Sun, MD 21911) in order to promote their respective businesses and highlight the thriving agricultural heritage of Cecil County by featuring all "on farm produced" products. The event will be a one (1) day event, held between the hours of Noon and seven (7) pm, on September 30, 2017. Inclement weather will cause the event to be rescheduled.

The overall theme of the event will be a picnic, featuring food, drink, and entertainment in a farm setting. No outside food or beverages will be allowed to enter the event. Entertainment will take the form of live music, farming demonstrations, brewing science presentations, cooking demonstrations, and others. During the event food and beverage sales will be made for both on and off-site consumption. Food for on and off-site consumption will include both raw (produce) and prepared (burgers, roast lamb, produce, etc.) items. Beverages for on-site consumption will include beer (produced by Firetower Farm Brewery) and non-alcoholic drinks such as water, lemonade, etc., served by the cup. Service of all alcohol beverages will be supervised by a Maryland "Serve Safe Certified" individual, in accordance with responsible serving guidelines. No open beverage containers will be allowed to leave the event area. Beverages sold for off-site consumption will be in sealed containers. Approval for alcohol beverage sales during this event have been approved in writing by the Maryland Comptroller's Office.

To repeat the words from Cecil County's Agricultural Economic Development website, "Agricultural pursuits have dominated the Cecil County landscape and economy for centuries." All three (3) of the event co-hosts are striving to continue and be a part of that proud tradition and are working hard in various ways to have a positive influence on the economic strength of Cecil County and the State of Maryland. We seek the special exception to the zoning ordinance that applies to our event; Article V, Part V, Section 102 (50.6.000) to further our efforts towards those goals.

Thank you,

Roger Davis, Firetower Farm Brewery

Sarah Rider, Flying Plow Farm

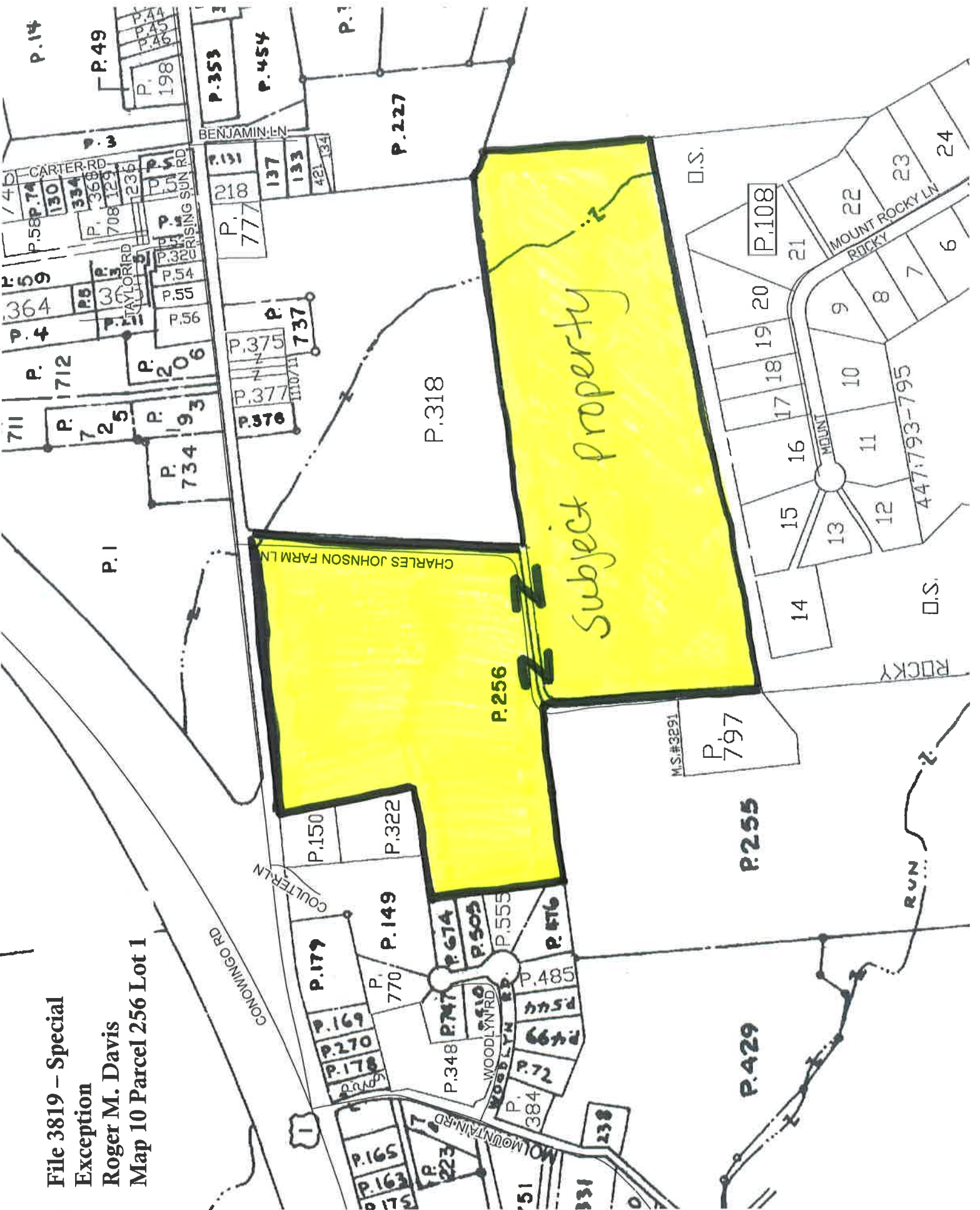
Doug XXX, Airlie Farm Lamb

Real Property Data Search

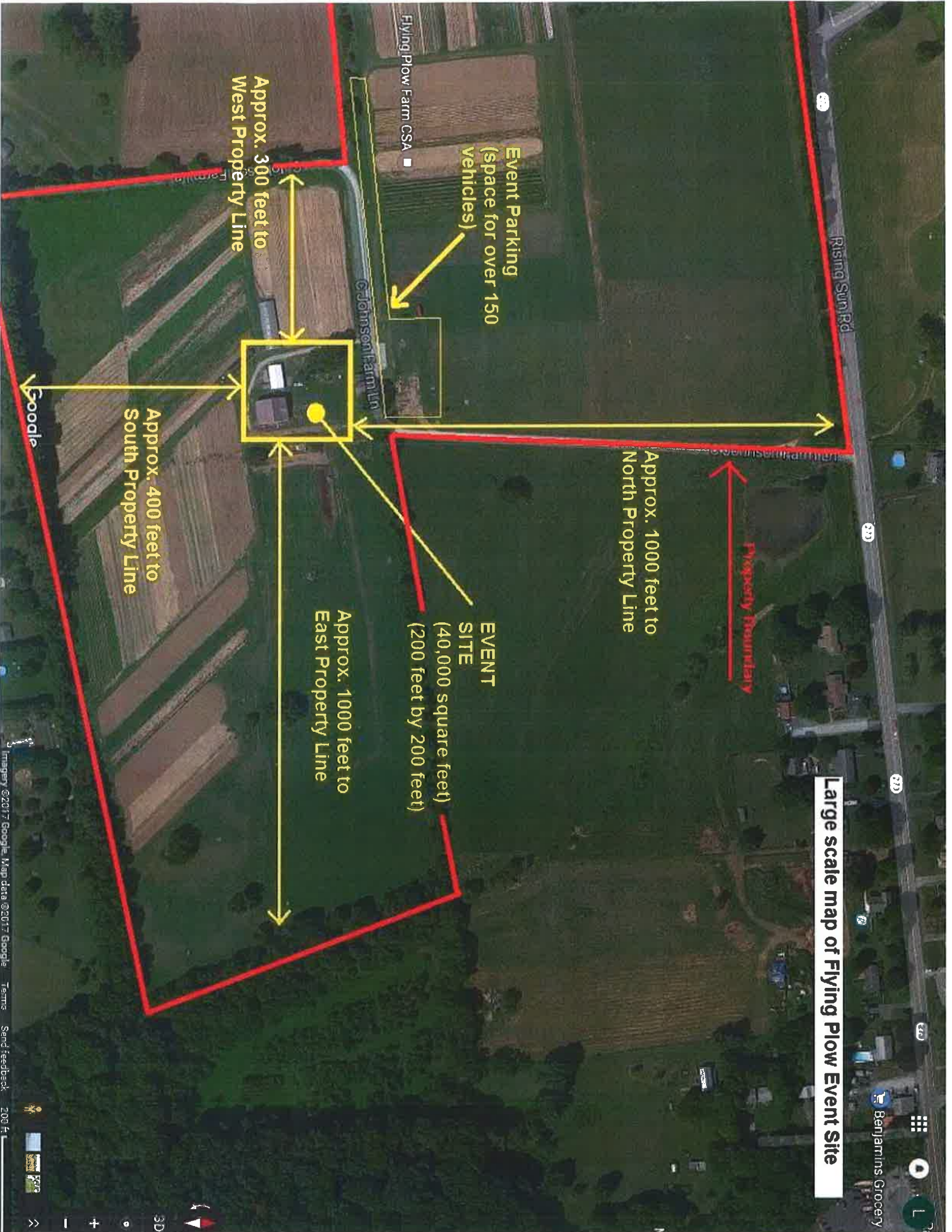
Search Result for CECIL COUNTY

View Map		View GroundRent Redemption				View GroundRent Registration			
Account Identifier:		District - 06 Account Number - 053580							
Owner Information									
Owner Name:		FLYING PLOW FARM				Use:		AGRICULTURAL	
Mailing Address:		96 CHARLES JOHNSON FARM LN RISING SUN MD 21911-0000				Principal Residence:		NO	
						Deed Reference:		/03508/ 00372	
Location & Structure Information									
Premises Address:		96 CHARLES JOHNSON FARM LN RISING SUN 21911-0000				Legal Description:		56 ACRES 96 CHARLES JOHNSON FARM LN W OF HARRISVILLE	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0010	0014	0256		0000			1	2017	1116/ 48
Special Tax Areas:					Town:		NONE		
					Ad Valorem:		9		
					Tax Class:				
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use	
1900		1,496 SF				56.0000 AC		000000	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation			
2	NO	STANDARD UNIT	BRICK	1 full					
Value Information									
		Base Value		Value		Phase-in Assessments			
				As of		As of		As of	
				01/01/2017		07/01/2016		07/01/2017	
Land:		120,500		106,800					
Improvements		90,300		110,500					
Total:		210,800		217,300		210,800		212,967	
Preferential Land:		23,800						23,800	
Transfer Information									
Seller: ECKROADE ROBERT J JR &				Date: 12/03/2013			Price: \$579,000		
Type: ARMS LENGTH IMPROVED				Deed1: /03508/ 00372			Deed2:		
Seller: ECKROADE, CARLENE & ROBERT				Date: 10/22/2009			Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: WLB /02740/ 00301			Deed2:		
Seller:				Date:			Price:		
Type:				Deed1:			Deed2:		
Exemption Information									
Partial Exempt Assessments:		Class		07/01/2016		07/01/2017			
County:		000		0.00					
State:		000		0.00					
Municipal:		000		0.00 0.00		0.00 0.00			
Tax Exempt:				Special Tax Recapture:					
Exempt Class:				AGRICULTURAL TRANSFER TAX					

File 3819 – Special
Exception
Roger M. Davis
Map 10 Parcel 256 Lot 1



Large scale map of Flying Plow Event Site



Event Parking
(space for over 150
vehicles)

Approx. 300 feet to
West Property Line

Approx. 400 feet to
South Property Line

Approx. 1000 feet to
North Property Line

EVENT
SITE
(40,000 square feet)
(200 feet by 200 feet)

Approx. 1000 feet to
East Property Line

Stephen O'Connor

From: BERMAN, LOUIS <LBERMAN@comp.state.md.us>
Sent: Thursday, June 15, 2017 1:16 PM
To: Roger Davis
Cc: Stephen O'Connor
Subject: RE: Written approval for beer sales at a proposed Agri-tourism event hosted by Flying Plow Farm, Firetower Farm Brewery, and Airlie Farm Lamb

APPROVED MARYLAND

Event on September 30,2017 at Flying plow farm.

Lou berman
Field Enforcement Div.
Comptroller of Maryland

410 260-7392

From: Roger Davis [mailto:Roger@Firetowerfarmbrewery.com]
Sent: Thursday, June 15, 2017 10:46 AM
To: BERMAN, LOUIS
Subject: Written approval for beer sales at a proposed Agri-tourism event hosted by Flying Plow Farm, Firetower Farm Brewery, and Airlie Farm Lamb

Lou,

I appreciate your taking the time to talk to me earlier. Here are the details from the email from SOConnor@ccgov.org

Roger,

...Please be advised for a Special Exception, the application must be in by 430 this Thursday to be heard in middle and late July. There is also a waiting and appeal period which could move your even back 60 days beyond that. Please feel free to call me with any specific questions.

1. *I have been advised that an off-site permit for a farm brewery license holder allows a very limited number of events (max 7) with the conditions that have the sale of the alcohol is subordinate to the main purpose of the event. Please present your specific event proposal to the County Liquor Board and/or the Comptroller's office for their approval in writing. Without this approval, the zoning office would be forced to apply the "Alcohol Beverage Sales/Liquor Store" (Article V, Part X, §127 [10.04.000]) portion of the Zoning Ordinance to the proposal.*

Article V, Part X, §127 (10.04.000) of the Zoning Ordinance states:

Alcoholic Beverage Sales and/or liquor stores may be permitted as a Special Exception in the BL and MB zones and shall be permitted in the BG and BI zones provided that no such establishment is located nearer than 1,000 feet to any principal structure used as a hospital, house of worship, or school.

As you can see that section doesn't allow the Alcohol Beverage Sales in NAR. If Comptroller's office issues approval, then their regulations would control as it relates to Alcohol Beverage Sales. If the Comptroller's office doesn't approve your request then Section 127 would control.

This is essentially a "picnic event" where Flying Plow Farm, Airlie Farm Lamb, and Firetower Farm Brewery will be serving food and beverages produced by our respective farms. I have attached the relevant applications and attachments for your review. Please let me know if you have any questions.

I have already gotten written approval from Earl Bradford of the Cecil County Liquor Board.

Thank you,
Roger
Firetower Farm Brewery
Cell 215-847-
3478

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