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January 26, 2024

Subject: Petition to the County Commissioners for Several Studies, a Written Review of Specific Comments/Issues, and a Town Hall with Charles County Commissioner Gilbert O. Bowling

Attachments: #1 Petition, #2 Resident Responses, #3 Specific Amendment 3 Comments, #4 Flood Assessments

Charles County Commissioners

Mr. Gilbert "BJ" O. Bowling
District 1 Commissioner
Office: 301-645-0550
Email: "Commissioner Bowling" <BowlingG@charlescountymd.gov>

Commissioner Bowling,

I want to thank you and the Commissioners for providing me (as a representative of the Woodland Point and Potomac View Communities) the opportunity to provide the community petition for your review. Based on the interactions with the Planning Commission and the interactions with community members the following are key points;

1. The communities are interested in the success of the various endeavors and projects that Charles County is embarking on to improve all aspects (economy, infrastructure, quality of life,...) for its residents.
2. Change is good if it is well-planned. Being good stewards of our precious resources is crucial to sound growth. **Change is not to be feared.**
3. Change can be complicated as it affects a specific development as well as the demands on precious resources or the impacts on good neighbors.
4. A fundamental premise for sound growth is that all parties equally understand the underpinnings behind the decisions and that ultimately there is a **"Due No Harm"** plan for the residents, environment, and all elements of it.
5. There is a delicate balance between the goals of developers and residents.
6. It is critical that this balance is achieved through transparency and specific/detailed exchanges between the Charles County PGM staff, the Planning Commission, and

the County Commissioners in conjunction with the developers and residents. **A Unified TEAM!**

7. The current Charles County Planning processes allow for 3 minutes of testimony or a written submission. These constraints make it difficult to engage in meaningful participation especially when there is no specific feedback to comments and insights. It is clearly a difficult approach to developing a consensus for a way forward.
8. Our communities have tried to evaluate the complexities of various proposed projects and through our assessments have developed great concerns for some elements that have the potential (if not properly implemented) to **"Create Harm"**.
9. The Planning Commission on 01/09/24 made recommendations concerning Swan Point that we never received any specific findings, analyses, or conclusions concerning the plans. **Our issues were not addressed.**
10. The Swan Point development warrants careful assessments given the major changes in the conditions that have evolved over 40 years. It seems prudent to evaluate the latest proposed plans and conditions **before accepting an amendment.**

Background

I received an email from Charles R. Rice, Planning Director, of October 19, 2023 which indicated that the Planning Commission standard process was to receive 3 minute briefings (**without discussion**) and written inputs (**without feedback**). He recommended that we present the community concerns to the Commissioners.

In response to this email, the residents of the Woodland Point and Potomac View Subdivisions were canvassed to determine the consensus of the communities, and it was determined that we should submit a petition (as attached). Some residents are secondary owners and don't live at the specific address or they were out of town. Accordingly, the owners were accessed, when possible, via face to face discussions, emails, and phone calls in order to get the maximum response.

Attachment #2 is a scanned set of responses with a notation as to whether a signature was provided or whether it was an email or phone call response.

There was a **77.3% homeowner response** (remainder owners were not available) and the responses were **unanimously (100%) in favor** of proceeding with the petition to the County Commissioners.

This petition below, is being provided as the summary of the community comments, concerns, and requests for the County Commissioners to consider, in preparation for the tentatively scheduled March 05, 2024 meeting.

We respectfully request that the County Commissioners Authorize the Two Identified Studies, provide a Written Review of Specific Comments/Issues, and a Town Hall with Charles County Commissioner Gilbert O. Bowling

Please feel free to contact me if there are any questions or issues with this submission.

Signed *Janis Belmanis*

Dated 01/26/24

Attachment #1

Petition to the County Commissioners for Two Studies, a Written Review of Specific Comments/Issues, and a Town Hall with Charles County Commissioner Gilbert O. Bowling

Petitioners Are Primary and Secondary Residents Woodland Point Subdivision Potomac View Subdivision

Villages at Swan Point has been evolving its characteristics and design for **more than forty years**. There have been lawsuits and agreements with the County Commissioners during this time. There have been significant changes in the environment (flood characteristics and water availability) during that time frame. Amendment 3 is the most recent changes.

Per **Maryland's Planning Visions**; there is an ongoing aspiration to develop and implement sound growth and development policy

<https://planning.maryland.gov/Pages/OurWork/planningvisions.aspx#>

This involves **Public Participation**, Community Design, **Infrastructure**, Environmental Protection, Resource Conservation, and Stewardship.

It was cited several times by the Planning Commissioners that many of the concerns stem from "not wanting change". This assumes the development as proposed "Does No Harm".

The latest proposed changes are about negative impacts on adjacent communities.

1. Significant changes in the ingress/egress road design
 - a. Impacts on the Floodplain
 - b. Potential increased flood risk (1-3 feet) in adjacent Communities**
 - c. FEMA flood rates have increased 2x-3x and will go even higher**

Study #1

It is proposed that a six month study be completed by USACE and MDE that evaluates the proposed road changes for increased flood risks in all areas affected. Alternatives that "Due No Harm" and support improved ingress and egress should be provided.

2. Significant proposed changes in water/sewer usage with reduced aquifer levels
 - a. Allowing visitors to access time shares and Airbnb authority for individual residences
 - b. Visitor usage increases the use of resources (water, sewer, EMS/EMTs, ...)
 - c. Potential loss of individual resident wells- \$10,000 to \$15,000**
 - d. Replacement times could be a year or more**

- e. Significant increases in CHCO taxes and service costs (to pay for new water sources currently estimated at \$236M and 2x rate increases)

Study #2

It is proposed that a six month study be completed by MDE and Charles County that evaluates the increased needs for aquifer usage and a 3rd deep well. The study needs to address the potential loss of resident wells and the impacts (cost and schedule) for replacement. The study needs to address what fallbacks will exist (when) for these residents including how central water would be made available to residents from the new sources.

- 3. In accordance with Maryland's Planning Visions, "**Citizens are Active Partners**"
 - a. During the Planning Commission hearings residents were allowed to provide comments without any feedback
 - b. Per Emails with CHCO Planning Director, Mr. Charles Rice, the following responses
 - i. *The "standard" process does not provide for specific feedback to all the comments provided by a resident.*
 - ii. *Yes, I believe you have properly characterized the "standard" process and there will be no specific feedback to the Community Comments.*
 - c. The community invested efforts to provide critical comments that warrant adjudication so everyone understands the decisions and rationale for moving forward with any plan.

Community Comment Review

It is requested that the general and specific comments provided in Attachment #3 be addressed in writing. Rationale should be provided as to the acceptance, rejection, or modification of a comment.

- 4. The Villages at Swan Point has the potential to severely impact the adjacent communities if the proper constraints and designs are not implemented.
 - a. The Planning Commission appeared to review this effort as a "standalone" improvement
 - b. Per Maryland's Planning Visions; there is an ongoing aspiration to develop and implement sound growth and development policy
 - c. This makes it critical to discuss the issues with the County Commissioners

Town Hall with Commissioner Gilbert O. Bowling

It is requested that a Town Hall be scheduled prior to this Amendment being taken up by the County Commissioners

Owners and Residents Petition the Following:

We respectfully request that the County Commissioners Authorize the Two Identified Studies, provide a Written Review of the General and Specific Comments/Issues, and a Town Hall with Charles County Commissioner Gilbert O. Bowling

Attachment #2 is a list of the Lots, Primary Residents with Community Address, Secondary Residents with Community Address and Secondary Resident Address. For any resident that direct contact is made there is a Signature, Email, Text, or Verbal Noted as well as the Date for the Petition Agreement.

Attachment #3 is a compilation of the general and specific concerns/issues as provided to the Planning Commission. These were NOT Adjudicated and we were told to forward them to the County Commissioners.

Attachment #4 is a compilation of the MD DFIRM flood conditions for the area being considered for road improvements. Included is a reconstruction of Hurricane Isabel (09/19/03) flooding of the road in question.

A Yes will be noted if the petition is supported.

A No will be noted if the petition is not supported.

A NA will be noted if the resident cannot be reached in a timely fashion.

Attachment #2

Petitioners Are Primary and Secondary Residents Woodland Point Subdivision Potomac View Subdivision

Community Resident responses are provided in support of the petition to the County Commissioners for several studies, a written review of specific comments/issues, and a Town Hall with Charles County Commissioner Gilbert O. Bowling.

Specifically the request is for two engineering studies concerning impacts on the floodplain, impacts on the water supply, and a written review of all identified comments/issues provided. The Town Hall is requested for a discussion of all the proposed efforts and concerns.

Notes:

- Lot # is the current # with a reference to the original subdivision lot(s).
- Owner includes home address if not primary residence.
- Yes/No indicates support for the requested studies, identified comments/issues, and a desire for a Town Hall discussion.
- NA (Not Available) Indicates Owner was not available during the petition signing time period.

NOTE: In order to protect the privacy of the Owners and Residents of the Woodland Point and Potomac View Subdivisions the actual petition with Names and Responses will be provided by Separate Correspondence upon request.

Attachment #3

Specific Comments Concerning the Proposed Changes in Amendment 3 (Not Addressed By Planning Commissioners & Staff)

General Overall Comments

This is clearly a high impact on the communities beyond the **stated intent of the 200' boundary** in the letter of notification. The Swan Point community is bounded by the residents of the Woodland Point, Potomac View, Neale Sound, and Banks ODee Subdivisions. This also includes any impacts on the Holy Ghost Cemetery. The nature of any and all changes to the Swan Point Development Plans need to be **carefully evaluated prior to making amendments per Docket 250 V3**.

As noted by the various planning commissioners **this is a complex set of issues**. This may have been evolving for decades but it seems imprudent that the proposed amendments don't have supporting studies prior to acceptance. Almost everything requires a validated assessment prior to acceptance. Best practices don't recommend buying a home prior to inspections. Here as well, best practices are to complete sufficient studies that inform the proposed amendments for the planning commission as well as the impacted residents.

The proposed amendments create or modify the original docket significantly:

1. Road changes affect floodplains and flood risks in surrounding communities.
2. Complete plans should be developed for the impacts on the aquifer for Swan Point given the occurrence of sink holes in Swan Point and for the surrounding communities as the number of residents increase in addition to any hotel guests adding daily surges.
3. Adding Time-share and Fractional Ownership beyond the planned hotel changes the complexion of the originally planned community and increases added resources.
4. Stormwater management is critical and should be a "complete" plan vs "conceptual".
5. Complete plans should be developed for water/sewer, traffic, Emergency Services, school impacts, and Critical Area impacts.

After several decades it seems that the various plans should have already been completed and **waiting another six months to complete them prior to approving any proposed amendments** seems responsible for informing the County Commissioners and all impacted residents.

General Floodplain Comments

During the Planning Commission meeting of 2019, it was clear that ingress/egress studies were about traffic control. There was much discussion over the road and floodplain as it relates to DFIRM maps and various Category 1 & 2 storms. There were discussions concerning climate change which lead to the typical “how real is it or that’s way out”.

The stated positions by the County were that the **details for flooding would be addressed in another phase of engineering planning** as that is the current regulations.

It was noted that this procedure should be updated, especially since there is a potential for significant impacts.

Asking the Planning Commissioners to make amendments concerning the roads (whether they support capacity for any given Phase of Swan Point development) without addressing the impact of flood seems absolutely inappropriate. The body language and tone of several Planning Commission members indicated frustration that making an early decision because of **bureaucratic rules did not to serve the citizens appropriately.**

As noted during the hearing there would be flooding ACROSS the road at Shaw’s Branch and Wise Marsh. This is approximately a 2300’ section of road that is in the flood area that is an AE6 flood zone with the potential of surges beyond that. **See Attachment #4.**

Knowing something is critical and may require a huge investment demands an assessment upfront. Waiting in a situation like this, seems like a foolish taxpayer expense to proceed and then stop in the future.

During the 2019 briefing, a Planning Commissioner, stated to the effect, **“We all live in flood zones so we just ride it out”**. Those comments are clearly callous given that many residents cannot ride it out in situations of a health crisis and would be at a risk of death in some cases.

The County is responsible for managing growth that includes known problems. **Problems need to be addressed up front when the issues (like floods) are already established.**

The County also is responsible for the safety of ALL its residents, such as those of the neighboring subdivisions that need to understand what the impacts are beyond Swan Point. Floodplain management for the Neale Sound is critical as any design of the ingress/egress roads can affect those residents adversely.

It should be noted that FEMA has told multiple states **that it was inappropriate to add any type of fill in a known floodplain without getting approval.** Their position is that any such fill has implications throughout the floodplain. The added fill (in this case adding dirt to raise the road) qualifies.

General Aquifer Management Comments

Aquifer Capacity is a concern in CHCO.

See New York Times article concerning the US and CHCO

https://www.nytimes.com/interactive/2023/08/28/climate/groundwater-drying-climate-change.html?nl=todaysheadlines&emc=edit_th_20230829

It seems that at the state level there should be concerns for the CHCO aquifers

- When adding 1500+ homes and a 300 room hotel
- Adding three additional Cobb Island communities is a big deal
- Revisiting allocations given the world has changed seems important
- In the Wetlands document that there was an indication of a potential 3rd deep well
- Going from 60,000 gpd to 455,040 gpd is a big deal!!

See Baltimore Banner follow-up article

<https://www.thebaltimorebanner.com/community/climate-environment/charles-county-water-supply-new-york-times-FVJHC6F6FBD6ZCCORMBKKSVEBY/>

Quote from CHCO acting director of Planning, Growth and Management (Jason Groth - Email:grothj@charlescountymd.gov , 301-396-5814)

*"If Charles County made **no changes and did not add sources of water to its supply, then it would reach a point in the future** when it is exceeding its permitted usage of water with the state, Groth said. But that is not the same as saying there would be no water left under the ground in Charles County or that wells would start to run dry, he said."*

Sorry, but finding other sources seems to acknowledge yes there is a resource problem. Commissioner Amanda Stewart called it a "Band-Aid".

A new WSSC pipeline and a desalination plant cost a lot of money and time to make up for depleted resources.

It seems that the desire for tourism is driving the problem.

See SOMDNews follow-up article

https://www.somdnews.com/news/local/charles-commissioners-gets-update-on-water-supply-plans/article_27205f75-c7d2-5738-9509-b78fe4d3b9cb.html

Specific quotes from the article.

*"The **total estimated program costs are \$236 million**, including \$27.7 million for expanded piping and connections for WSSC Water, \$27.5 million for expanded treatment, \$122 million for a new Potomac River water treatment plant and \$57.9 million for piping to distribute the new Potomac water."*

*"Projected quarterly bill increases by fiscal year from 2022 through 2035 start at 4.6% and end at 1.9%, but **include peak increases of 14.9% and 15.9% in fiscal 2024 and 2025.** Most of the water-related fees in those years would be for existing debt service, Duke said."*

This is clearly a situation where the fix is simpler by not doing something (especially in Critical Areas and flood plains).

- **Ultimately Community residents may end up with well issues AND higher water/sewer fees**
- **Smart growth and planning cannot allow one set of residents to suffer at the expense of another's development – "DO NO HARM"**

Specific Comments

1. Floodplain Management

- a) The flood plains and critical areas are all critically inter-related as Neale Sound, Wise Marsh, and Shaw's Creek **work together to create a flood relief** during any serious surge, fluvial, and pluvial flooding events.
- b) Ingress and egress to the stated communities are crucially related to any flood management approach.
- c) This issue was discussed with the Charles County Flood Representative, PalmerK@charlescountymd.gov during FEMA zone updates during the 2015-2016 FIRM updates.
- d) Charles County Planning **requires the homeowner to follow the FIRMS during any permit considerations.**
- e) Recent discussions with FEMA indicate that the FIRMS are conservative as they do not handle the elements of pluvial and fluvial flooding. An updated FIRM would only increase the water depths.
- f) In Attachment 4 are DFIRM plots that show the Swan Point Road being inundated with several feet of water in today's climate (not the future which is worse).
- g) Per RiskFactor.com the reconstruction of Hurricane Isabel (CAT 1 for MD) in 09/19/03 shows the **water depth to be 2-3 feet deep.**
- h) Personally I lived through Hurricane Isabel and the **data shown is what I personally experienced.**
- i) With the advent of the FEMA SHFA flood maps and the newly published FEMA RR2.0 risk curves (**already raising insurance rates 3 to 10 times**) there needs to be a critical evaluation of any changes to the floodplains through the introduction of new roads and changes in elevations.
- j) Roads with culverts would not necessarily alleviate the problems especially if the rain rates and wind rates are excessively high, as where a bridge might be necessary.
- k) Army Corps of Engineers/MDE needs to provide the "Correct Design" that does not create additional floodplain increases in the adjoining subdivisions.

- l) **Recommendation** - Army Corps of Engineers (USACE)/MDE needs to provide an assessment of any proposed changes to Swan Point road.
 - 1. Elevation changes that create potential dam effects need to be understood
 - 2. Inappropriate designs will create excess flooding in the Neale Sound.
 - 3. Any design considered must allow for proper ingress and egress for all affected communities and not just Swan Point.
- m) **Recommendation** – Hold any changes to the road design (per Paragraph 25. Conditions of the 2006 Docket 250 Order- Transportation), **until USACE/MDE can provide input on floodplain impacts as well as ingress and egress concerns.**

2. Aquifer Management

- a) Complete plans should be developed for the impacts on the aquifer for the surrounding communities as the number of residents increase in addition to any hotel guests or timeshare visitors adding daily surges.
- b) In Swan Point **there has been several sink holes** which need to be assessed especially with increased water requirements.
- c) If there are any transient ownership considerations, it is absolutely imperative to complete a thorough study prior to any amendments.
- d) **Recommendation** – An amendment in Paragraph 16 should be added that requires this **study to be completed prior to an amendment decision.**

3. Timeshare and Fractional Ownership

- a) The original plan was for a hotel that business guests could use during off-site meetings at the Swan Point Conference Center and have access to the amenities like the golf course.
- b) Having business guests already creates an impact on resources that is beyond the currently planned 1500 new residents.
- c) Business guests, as professionals, do not hurt the values or change the characteristics of a planned community.
- d) Currently Swan Point **does not allow ANY Airbnb or Vrbo type of rentals (only long term rentals allowed)** in order to maintain the community characteristics.
- e) Adding transient (timeshare and fractional) ownership significantly **changes the family oriented character of the agreed upon WPC plans.**
- f) Transient ownership like timeshares increases the use of community resources more than the regular occupants identified in the projected increase of 1500 residents, When transient occupants are “vacationing” in a permanent home the maximum occupants can be higher on average. These occupants have a different respect for the properties and neighbors which can lead to issues with annoyances like noise or inappropriate use of the properties. This in turn changes the fundamental family oriented character of the WPC planned community.
- g) These proposed changes in ownership would have a **negative impact on property values and tax revenues.**
- h) **Recommendation** – The stated amendments in Paragraph 3.D and 3.E **should be removed.**

4. Stormwater Management

- a) Stormwater management is critical and should be a “complete” plan vs “conceptual”.
- b) **Recommendation** – The stated amendment in Paragraph 11 should be removed.

5. Complete Infrastructure Plans

- a) Complete plans should be developed for water/sewer, Emergency Services, school impacts, and Critical Area impacts.
- b) If there are any transient ownership considerations, it is absolutely imperative to complete a set of thorough studies given the added requirements.
- c) **Recommendation** – An amendment in Paragraphs 16&21, 17, 22, 26, and 4&12&27 should be added that requires this **study to be completed prior to an amendment decision.**

We respectfully, as residents of Woodland Point and Potomac View Subdivisions, provide the following comments and proposed recommendations for consideration and incorporation prior to the acceptance of any proposed changes in Amendment 3.

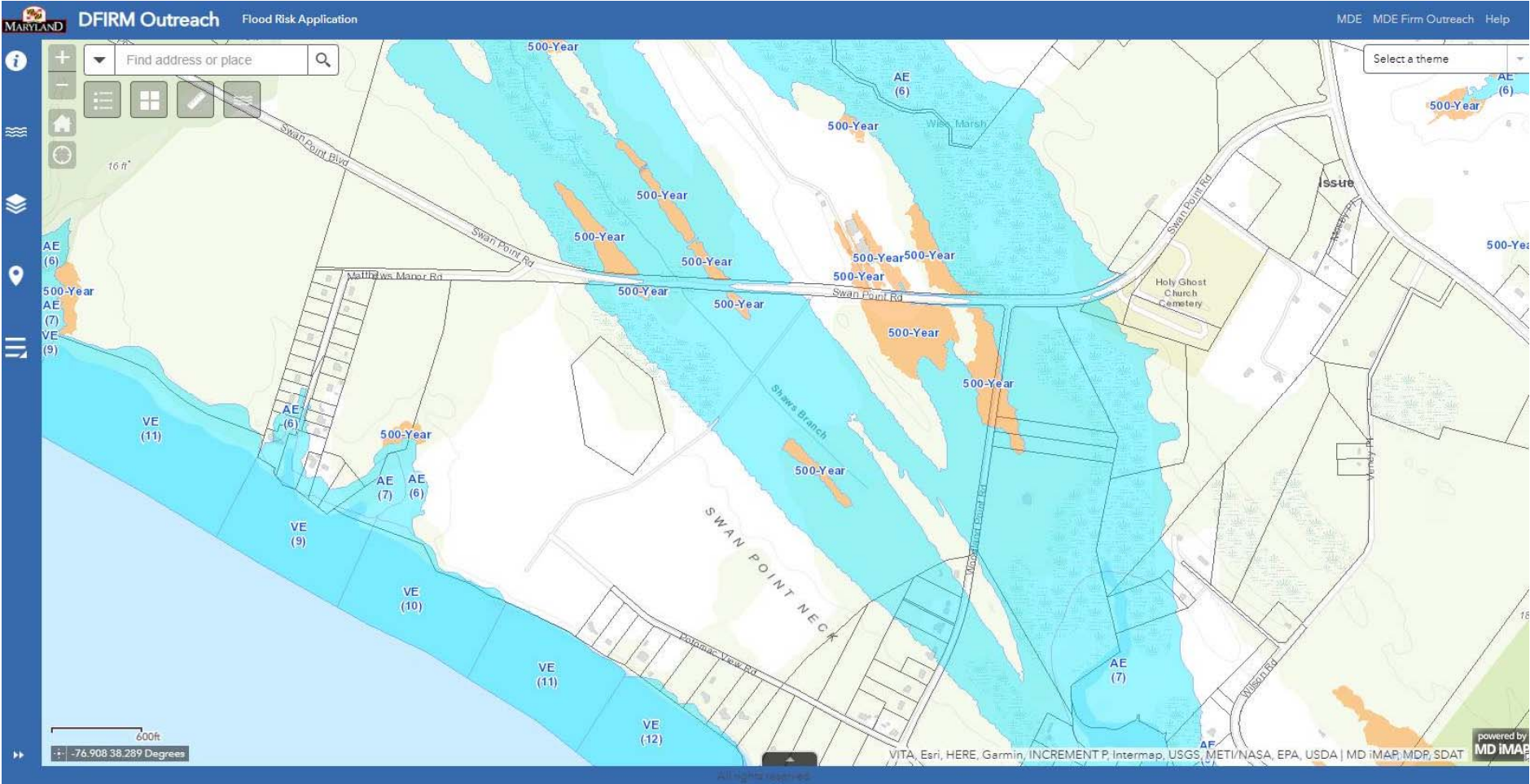
Please feel free to contact me if there are any questions or issues with this submission.

Signed Janis Belmanis

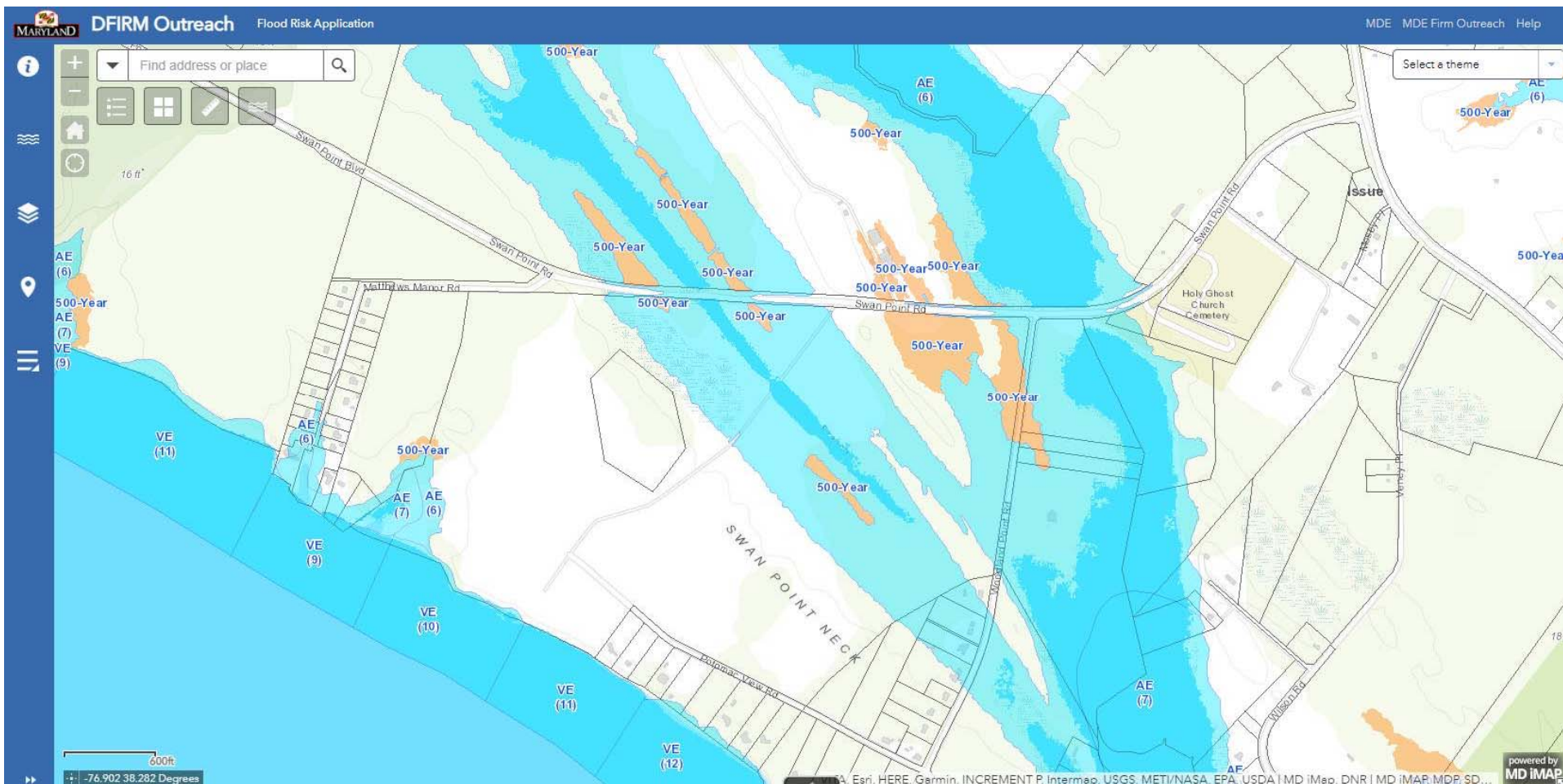
Dated 01/26/24

Attachment #4 Flood Maps and Hurricane Isabel – 09/19/03

Swan Point Road DFIRM – 08/16/23 Shaw's Creek and Wise Marsh AE6 Flood Zone

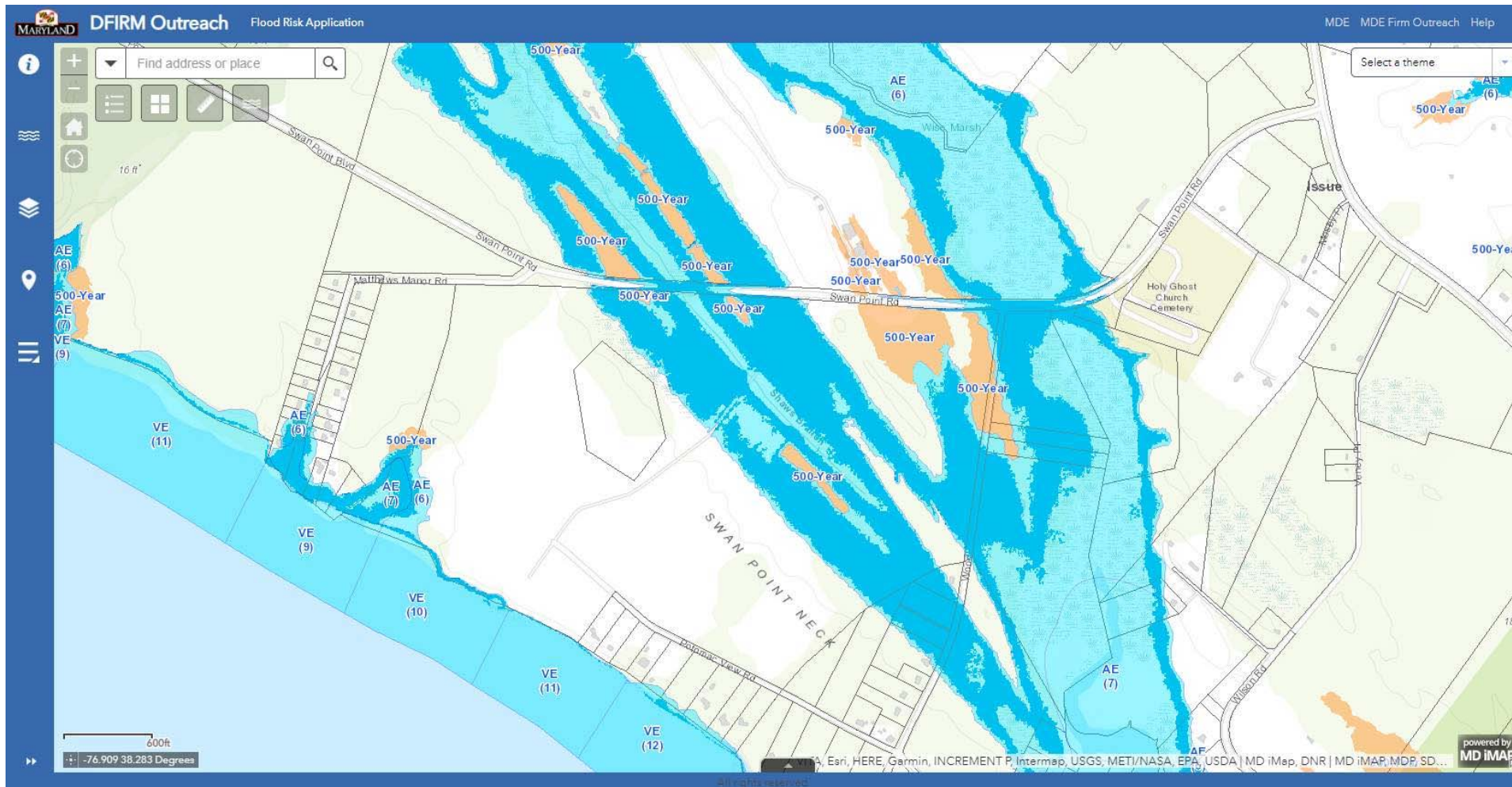


Swan Point Road DFIRM – 08/16/23 Shaw's Creek and Wise Marsh AE6 Flood Zone w/ 0-2' Surge



Swan Point Road DFIRM – 08/16/23

Shaw's Creek and Wise Marsh AE6 Flood Zone w/ 2-5' Surge



Swan Point Road RiskFactor – 08/16/23
Shaw's Creek and Wise Marsh
Hurricane Isabel – 09/19/03

