

**Applicant's Verified Statement Satisfying Application Criteria for Amendment to  
Approved Growth Allocation Decision relating to  
Stormwater Management Conditions 23-32**

Format of Application: Citations to Sections and text from Ordinance No. 357, setting forth the process for Amendments to Growth Allocation, 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](mailto:gvalanos@midlandco.net)

Developer:

TND Development, Inc.  
c/o George Valanos, President  
1228 Thirty-First St., NW  
Washington, DC 20007  
[gvalanos@midlandco.net](mailto: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" relating to stormwater management does not alter the Concept Plan in any respect with the possible exception that the Applicant proposes to design its stormwater management system to comply with Town Ordinance No. 348. Ordinance No. 348 does not allow the Applicant to count stormwater management pool ponding areas as open to the public; whereas the requirements for a TND zone mandate that the Applicant maintain at least 20% open space and allow the Applicant to include all pool ponding areas as open space. The Applicant calculates that in the event that it excludes stormwater management pool ponding areas from open space to comply with Ordinance No. 348, its open space will decline from approximately 25% to 21.1%. See Site Statistics for MP3-150', attached hereto as Exhibit 4, (stating that public open space amounts to 17.997 acres of a gross site area of 71.248 acres and that proposed public open space not including ponds/bio-retention amounts to 15.040 acres or 21.1%). In the event, however, that actual implementation of the stormwater management plan results in larger stormwater management pond areas than contemplated, the Applicant may have to make minor revisions to the Concept Plan to maintain 20% open space in compliance with the requirements of Ordinance No. 348. Any such changes to the Concept Plan which are not probable, but are possible, are permitted within Condition 2.2.(e) of the Approved Growth Allocation Decision and the Adjustment Limitations contained in Condition 2.4.1. through 2.4.9 thereof.

**(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. The Decision expressly contemplated that stormwater management ponds would be counted as open space because the Town's TND ordinance so provides. See page 46 of the Approved Growth Allocation Decision and footnote 241 therein. This notwithstanding, however, in the event that this Proposed Amendment is granted and Ordinance No. 348 is applied to this development plan in lieu of the SWM Conditions, the Applicant may increase the amount of land area devoted to open space from that counted in connection with the Approved Growth Allocation Decision for the reasons set forth at page 2 hereof in response to Section 348-28G.(1)(d). In summary, the physical area devoted to open space in the Approved Concept Plan will not be reduced pursuant to this Amendment and it may increase.

**(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. It does not seek to change Conditions 23 through 32, but does seek to allow the Applicant to comply with subsequently enacted Ordinance No. 348 (a new local law) to satisfy stormwater management requirements in lieu of applying these SWM Conditions. The Applicant believes this is justified because Ordinance No. 348 was not adopted until after issuance of the Approved Growth Allocation Decision, it is likely that the Commissioners would not have drafted the customized stormwater conditions set forth in Conditions 23 through 32 had Ordinance No. 348 been in effect, and at the time the Commissioners adopted Ordinance No. 348 the Commissioners expressly stated that Ordinance

No. 348 was intended to serve as a safe harbor for the Applicant in lieu of SWM Conditions set forth in the Approved Growth Allocation Decision.

**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 7, 8 and 9 hereof.

**(a)[1]**

The Applicant is/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:

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Miles & Stockbridge, P.C.  
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**(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. 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 explaining how the criteria for the award of growth allocation are satisfied and the grounds for approval. The Decision also contains 61 conditions upon which approval was granted which are

