



## DEPARTMENT OF PLANNING AND ZONING

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**April 1, 2022**

### MEMORANDUM

**To:** Planning Commission

**From:** Mike Mallinoff, Acting Director of Planning & Zoning

**Re:** Ordinance O-6-22: Medical Cannabis Dispensaries – For the purpose of allowing medical cannabis dispensaries in certain zoning districts within the City of Annapolis; adding a use subject to standards; adding certain definitions; and generally relating to medical cannabis dispensaries ZTA2022-001

**Attachments:**

1. O-6-22 First Reader
2. Map of 2 mile dispensary buffer & 1000 foot school buffer
3. Map of 1 mile dispensary buffer & 750 foot school buffer
4. Schools: Public & Private, Elementary, Middle & High
5. Property Crime and Violent Crime Heat Maps, 2010-2021

### **SUMMARY AND BACKGROUND**

The purpose of this legislation is to allow medical cannabis dispensaries throughout the City with restrictions on proximity to any existing dispensary and to public and private schools. A medical cannabis dispensary is defined as “an entity licensed under the Maryland Code, Health-General Article, Title 13, Subtitle 33 that acquires, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers cannabis, products containing cannabis, related supplies, related products containing cannabis including food, tinctures, aerosols, oils, or ointments, or educational materials for use by a qualifying patient or caregiver.”

Legislation to allow medical cannabis dispensaries was originally proposed in 2021 under O-4-21. That legislation proposed to consider dispensaries as personal care establishments and allow it as a permitted use in all commercial and industrial zoning districts except for the P, Professional Office District and the C2P, Conservation Professional Office District. The Planning Commission reviewed the legislation thru the public hearing process and made the following recommendation to the City Council:

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*“The Planning Commission did not fully support this legislation as written, and found upon majority vote, that if this legislation was to be passed by the council with respect to Cannabis Dispensaries it should consider the following for amendment. The primary goal of the Planning Commission is to prohibit clustering of medical cannabis dispensaries, and to ensure approved dispensaries be spread thinly throughout the City in appropriate places.*

*Without expressing a preference for what regulatory mechanism (i.e. Permitted, Permitted Subject to Standards, or Special Exception) is instituted to regulate Medical Cannabis Dispensaries, the Planning Commission recommends strongly that in any legislation permitting dispensaries, the process shall include the opportunity for the public to comment on any application and that the following four factors be included.*

- I. Distance from existing dispensaries*
- II. Distance from public and charter schools*
- III. Distance from residential lot lines*
- IV. Parking standards and Design standards (e.g. signs, lights, access, security, loitering, etc.)”*

O-4-21 was not approved by the City Council. In January, 2022, revised legislation was introduced and referred to the Planning Commission. We will first review the State regulations and then present an analysis of the proposed legislation.

### **STATE REGULATIONS**

In 2013, the *Natalie M. LaPrade Maryland Medical Cannabis Commission* (MMCC) was created through legislative action by the General Assembly. The MMCC developed extensive policies, procedures, and regulations to implement programs that ensure medical cannabis is available to qualifying patients in a safe and effective manner. The MMCC oversees all licensing, registration, inspection, and testing measures pertaining to Maryland’s medical cannabis program and provides relevant program information to patients, providers, growers, dispensers, processors, testing laboratories, and caregivers.

The MMCC reviews and approves for companies to grow, process, and dispense medical cannabis for compliance with the regulations they have implemented in a two stage process. Stage Two of the approval process, includes undergoing criminal background investigations, completing regulatory requirements, securing local zoning approvals, as well as constructing their facilities. The Commissioners will vote on final licenses in public meetings, on a rolling basis, as pre-approved companies complete their regulatory requirements.

The regulations also require both patients and providers to register with the MMCC:

- Patient Registry - Any Maryland resident whose provider approves medical cannabis as a treatment option for a qualifying medical condition is eligible to register with the MMCC as a patient. Qualifying medical conditions include cachexia, anorexia, wasting syndrome,

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chronic or severe pain, severe nausea, seizures, severe or persistent muscle spasms, glaucoma, and post-traumatic stress disorder.

- Provider Registry - A provider must register with the MMCC as a “Certifying Provider” to issue online certifications to patients for medical cannabis. Once registered, the provider may submit online written certifications, which will be linked to the registered patient’s Commission-assigned number. Patients will then be able to obtain medical cannabis at any licensed dispensary in Maryland by presenting their MMCC-issued ID card or another valid government-issued ID (i.e. driver’s license).

The MMCC has established a Bureau of Enforcement & Compliance that has the following responsibilities that more than adequately address many of the perceived impact issues:

- Enforces Title 10, Subtitle 62 of the Code of Maryland Regulations (COMAR)
- Provides information and education to law enforcement agencies and state’s attorney’s office.
- Completes background investigations on cannabis license owners and employees.
- Conducts at least two annual inspections of facilities (growers, processors, dispensaries, and independent testing laboratories), where investigators: Conduct plant counts; Review and monitor inventory; Ensure proper labeling for patient safety; Seize evidence if necessary;
- Investigates complaints of: Diversion (transferring medical cannabis from the certified patient to another person); Adverse effects (an undesired effect resulting from medical cannabis); Dispensary sales errors; Certifying provider complaints; Any incident considered hazardous to patient health.
- Reviews and processes licensees’ requests to: Transfer ownership interests in licenses. Change locations; Enter into management agreements.
- Ensures compliance with mandatory reporting requirements

The comprehensive regulations at the State level in conjunction with the decision by the legislature to allow individual counties and municipalities in the state to develop land use controls has created a current situation where there are a wide variety of local land use controls. Some jurisdictions, such as Montgomery and Howard counties, are processing medical cannabis businesses under their existing planning and zoning regulations through interpretations of agribusiness, retail, ambulatory medical care, and other such use categories. Alternatively, a number of local jurisdictions, including Anne Arundel County, have enacted zoning regulations limiting the operation of medical cannabis businesses to specified zoning districts with use setbacks, signage and lighting standards, and enhanced security requirements. These use restrictions and additional limitations vary from jurisdiction to jurisdiction and can have the effect of creating limited clusters of available sites. Additionally, the restrictions can become a form of

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exclusionary zoning that limits the participation of minority-owned or women-owned businesses as the necessary monetary investment to participate becomes cost-prohibitive.

In 2017, a disparity study, entitled *Business Disparities in the Maryland Market Area*, provided a comprehensive analysis of the participation of minority-owned and women-owned business enterprises in Maryland state contracting and in the geographic and product markets within which the State operates. A key finding was that discrimination continues to adversely impact minority-owned and women-owned firms throughout the Maryland economy. A subsequent advisory opinion in 2018 authored by the same consultant of the 2017 business disparity study found that the same adverse impacts to minority-owned and women-owned businesses across the Maryland economy exist in the specific industries associated with medical cannabis. The General Assembly has considered, both last year and this year, legislative remedies with regard to the cannabis industry to expand participation of minority-owned and women-owned businesses.

### **ANALYSIS**

O-6-22 proposes a different approach to allowing medical cannabis dispensaries as a use subject to standards. The standards proposed provide distance limits to existing dispensaries and public and private schools, as shown on the maps in attachments 2 and 3. Attachment 2 shows the impact of the 2-mile and 1000 foot limitations, which virtually eliminates any locations in the City where dispensaries could be located. In essence, the effect of these buffers would run against the core intent of the legislation to include the dispensary as a permissible land use subject to standards. Further, these highly restrictive buffers would perpetuate the findings of the 2017 business disparity study and 2018 advisory opinion referenced above.

Staff then began evaluating alternatives, including the map shown in attachment 3. This map is based on what is mandated in Anne Arundel County for distance from existing dispensaries and public and private schools. It shows a 1-mile dispensary buffer and a 750-foot school buffer from public and private schools. Attachment 4 is the list of schools included in the map. These buffers strike a balance between addressing the Planning Commission's concerns while also allowing for a sufficient range of possible existing commercially zoned locations for a dispensary. The 1-mile dispensary buffer would still limit the total number of dispensaries in the City.

Staff also evaluated other amendments to the legislation that would deal with the impact issues previously identified by the Planning Commission in 2021 and is proposing the following additional standards as mitigation measures:

- “No loitering” signs shall be conspicuously posted in all parking areas.
- Displays and depictions of medical cannabis may not be visible to the general public
- The facility may not have an on-site physician for the purpose of issuing written certifications for medical cannabis.

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Staff does not feel a need to propose additional amendments regarding lighting or security as there is no documented pattern of higher crime activity associated with medical cannabis dispensaries in comparison to other retail establishments. In fact, as attachments 4 and 5 show, the patterns of violent crime and property crime in Annapolis between 2010 and 2021 are concentrated in areas generally far from the one existing medical cannabis dispensary adjacent to the Annapolis city limits.

Staff is also recommending that the definition of a licensed premises of a licensed dispensary of medical cannabis be amended to state the following: *"A licensed premises of a licensed dispensary of medical cannabis is as defined in COMAR 10.62.01.01."* This change will allow that if there are any changes to State law as to the definition, it will not require the City Code to be amended to be in compliance with State regulations.

### **CODE COMPLIANCE**

Chapter 21.34 Zoning Text Amendments establishes the process for enacting amendments to the zoning code. It requires, in accordance with section 21.32.010 Purpose and authority that amendments shall be in accordance with the following:

*For the purpose of promoting the public health, safety, morals and general welfare, and conserving the value of property throughout the city, the city council, from time to time, in the manner set forth in this chapter, may amend the regulations imposed in the districts created by this title; provided, that in all amendatory ordinances adopted under the authority of this chapter, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantages of the entire city and the uses to which property is devoted at the time of the adoption of the amendatory ordinance.*

The City's current Comprehensive Plan, adopted in 2009, does not address medical cannabis dispensaries specifically but it does provide general guidance on land use and economic development that aligns with the intent of the legislation. As described in Chapter 3, Land Use and Economic Development, Policy 1 states that "growth will be directed primarily to four Opportunity Areas" which were selected due to their ability to accommodate change. Portions of three of these Opportunity Areas would be permitted locations for a dispensary based on the 1-mile and 750-foot buffers shown in attachment 3.

The permitted dispensary locations outside of the Opportunity Areas are also consistent with Policy 2 of the same chapter which states that "Infill development, redevelopment, and expansion outside of the four defined Opportunity Areas should be consistent with the character of the surrounding community", and Policy 5 which states "Protect and promote the neighborhood commercial retail centers in the city." Policy 5.1 expands on this by stating "The City should follow land use and development strategies to protect and support the expansion of neighborhood commercial retail centers that serve local residents" and Policy 5.2 states "The City's economic development efforts should focus on business retention, intensification and expansion within areas zoned for neighborhood business."

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**RECOMMENDATION**

Staff recommends O-6-22 be APPROVED with the following amendments:

Modify the definition to state that: A licensed premises of a licensed dispensary of medical cannabis is as defined in COMAR 10.62.01.01.

Add the following standards:

- A 1-mile dispensary buffer and a 750-foot public and private school buffer
- “No loitering” signs shall be conspicuously posted in all parking areas.
- Displays and depictions of medical cannabis may not be visible to the general public
- The facility may not have an on-site physician for the purpose of issuing written certifications for medical cannabis.

Report Prepared by:

Eric Leshinsky, AICP  
Chief of Comprehensive Planning

Jacquelyn Rouse, AICP  
Planning Administrator

## **ATTACHMENTS: O-6-22**

- 1. Ordinance O-6-22 First Reader**
- 2. Map of 2 mile dispensary buffer & 1000 foot school buffer**
- 3. Map of 1 mile dispensary buffer & 750 foot school buffer**
- 4. Schools: Public & Private, Elementary, Middle & High**
- 5. Property Crime & Violent Crime Heat Maps**

1 **..Title**

2 **Medical Cannabis Dispensaries** – For the purpose of allowing medical cannabis dispensaries in  
3 certain zoning districts within the City of Annapolis; adding a use subject to standards; adding  
4 certain definitions; and generally relating to medical cannabis dispensaries.

5 **..Body**

6 **CITY COUNCIL OF THE**  
7 **City of Annapolis**

8  
9 **Ordinance 6-22**

10  
11 **Introduced by: Alderman Gay**

12 **Co-sponsored by:**

13  
14 **Referred to**  
15 **Planning Commission**  
16 **Rules and City Government Committee**

17  
18 **AN ORDINANCE** concerning

19  
20 **Medical Cannabis Dispensaries**

21  
22 **FOR** the purpose of allowing medical cannabis dispensaries in certain zoning districts within the  
23 City of Annapolis; adding a use subject to standards; adding certain definitions; and  
24 generally relating to medical cannabis dispensaries.

25  
26 **BY** repealing and reenacting with amendments the following portions of the Code of the City  
27 of Annapolis, 2022 Edition  
28 21.48.020  
29 21.48.030  
30 21.72.010

31  
32 **BY** adding the following portions to the Code of the City of Annapolis, 2022 Edition  
33 21.64.405  
34  
35

36 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**  
37 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:  
38

39 **Title 21 – PLANNING AND ZONING**  
40 **Chapter 21.48 – USE TABLES**

41  
42 **Section 21.48.020 - Table of Uses—Commercial and Industrial Zoning Districts.**

43 P = Permitted Use; S = Special Exception Use; -Std = Use Subject to Standards (Chapter  
44 21.64); A = Accessory Use; Blank = Not Permitted



1 A use, including a special exception use, that is not normally permissible as a permitted use  
2 or use subject to standards in a zoning district may be permitted in that district as a planned  
3 development use pursuant to Section 21.24.020.

4 **Important.** The notes at the end of the table are as much a part of the law as the table itself.  
5

Uses	District B1	District B2	District B3	District B3-CD	District BCE	District BR	District C2	District C2A	District PM2	District I1
MEDICAL CANNABIS DISPENSARY	<u>P-Std</u>	<u>P-Std</u>	<u>P-Std</u>	<u>P-Std</u>	<u>P-Std</u>	<u>P-Std</u>	<u>P-Std</u>	<u>P-Std</u>	<u>P-Std</u> <sup>1,2</sup>	<u>P-Std</u> <sup>1</sup>

6  
7 **Notes:**

8 Uses in the PM2 district are subject to the following provisions as indicated in the table:

- 9 1. This use is permitted as a principal use only in districts that do not adjoin (along non-street  
10 frontage) property zoned R1, R1A, R1B or R2.
- 11 2. This use is permitted as an incidental use in a structure that contains business, professional or  
12 governmental offices provided that gross floor area of all incidental uses does not exceed the  
13 amount of space devoted to the first floor of a multistory structure; except, that in no case shall it  
14 exceed thirty-three percent of the total gross floor area. This use is considered a neighborhood  
15 convenience use and is subject to standards given in Section 21.64.420.
- 16 3. If the principal use with which the drive-thru facility is associated is a special exception use,  
17 then the drive-thru facility requires special exception approval.
- 18 4. ATMs are permitted as walkups subject to all other applicable regulations. In the C2 and C2A  
19 districts, drive-through facilities are not permitted.

20  
21 **REVISOR’S NOTE:** In this section, the use “Medical Cannabis Dispensary” is added.  
22 See the defined term in Section 21.72.010.D of this Ordinance.

23  
24 No other changes are made.  
25  
26

27 **Section 21.48.030 - Table of Uses—Office and Mixed Use Zoning Districts.**  
28

29 P = Permitted Use; S = Special Exception Use; -Std = Use Subject to Standards (Chapter  
30 21.64); A = Accessory Use; Blank = Not Permitted

31 A use, including a special exception use, that is not normally permissible as a permitted use  
32 or use subject to standards in a zoning district may be permitted in that district as a planned  
33 development use pursuant to Section 21.24.020

34 **Important.** The notes at the end of the table are as much a part of the law as the table itself.  
35

Uses	District P	District MX	District PM	District C2P
MEDICAL CANNABIS DISPENSARY	<u>P-Std</u>	<u>P-Std</u>	<u>P-Std</u>	

1 Footnotes:

2 <sup>1</sup> If the principal use with which the drive-thru facility is associated is a special exception use,  
3 then the drive-thru facility requires special exception approval.

4 <sup>2</sup> The following apply only to the uses specified: in the MX-1 area only, in planned  
5 developments with a minimum lot size of five acres, "accessory structures" such as clock towers  
6 attached to office and/or retail structures and "theaters, indoor" shall not exceed one hundred feet  
7 in height. See the bulk regulations table in Section 21.50.260.

8 Table Notes:

9 The following regulations apply to all uses in the MX District:

10 1. Buildings in excess of forty-six feet, but less than fifty-five feet in height are subject to the  
11 following:

12 a. Either twenty-five percent of the gross floor area shall be designed for retail uses, or  
13 residential uses, or a combination of retail and residential uses, alternatively, the entire ground  
14 level front façade shall be designed for retail uses, exclusive of: (i) not more than one driveway,  
15 which shall not be greater than thirty-three feet wide, required for access to parking; (ii) space  
16 required for a lobby and space required for access to upper floor uses. Retail use along the front  
17 façade shall have a minimum height of twelve feet and a minimum depth of twenty-five feet;

18 b. If surface parking is located on the zoning lot, it shall be located at the rear of the zoning lot  
19 and new structures shall be located at the front of the zoning lot. If surface parking is located  
20 adjacent to single-family residential use, dense plantings shall be installed and maintained on the  
21 zoning lot to provide an effective screen; and

22 c. Any adverse impacts on critical lane levels of service at adjoining intersections shall be  
23 mitigated by the applicant.

24 2. Buildings in excess of forty-six feet, but less than sixty-five feet in height require special  
25 exception approval except as provided in note No. 1 above.

26 3. Uses and combinations of uses located on zoning lots of forty thousand square feet or more  
27 require special exception approval, unless such uses are approved as part of a planned  
28 development.

29

30 REVISOR'S NOTE: In this section, the use "Medical Cannabis Dispensary" is added.  
31 See the defined term in Section 21.72.010.D of this Ordinance.

32

33 No other changes are made.

34

35

36 **Chapter 21.64 - STANDARDS FOR USES SUBJECT TO STANDARDS**

37 **SECTION 21.64.405 - MEDICAL CANNABIS DISPENSARIES.**

38

39 A. THIS USE MAY NOT BE LOCATED WITHIN A TWO MILE RADIUS OF ANY OTHER  
40 LICENSED PREMISES OF A LICENSED DISPENSARY OF MEDICAL CANNABIS.

41

42 B. THIS USE IS NOT PERMITTED WITHIN 1,000 FEET OF THE LOT LINE OF A PUBLIC  
43 OR PRIVATE ELEMENTARY, MIDDLE, OR HIGH SCHOOL.

44

45

1 **Chapter 21.72 - TERMS AND DEFINITIONS**

2 **Section 21.72.010 – Terms.**

3  
4 D. List of Definitions.

5  
6 “MEDICAL CANNABIS DISPENSARY” MEANS AN ENTITY LICENSED UNDER THE  
7 MARYLAND CODE, HEALTH-GENERAL ARTICLE, TITLE 13, SUBTITLE 33 THAT  
8 ACQUIRES, POSSESSES, PROCESSES, TRANSFERS, TRANSPORTS, SELLS,  
9 DISTRIBUTES, DISPENSES, OR ADMINISTERS CANNABIS, PRODUCTS CONTAINING  
10 CANNABIS, RELATED SUPPLIES, RELATED PRODUCTS CONTAINING CANNABIS  
11 INCLUDING FOOD, TINCTURES, AEROSOLS, OILS, OR OINTMENTS, OR  
12 EDUCATIONAL MATERIALS FOR USE BY A QUALIFYING PATIENT OR CAREGIVER.  
13

14 REVISOR’S NOTE: In this section “Medical Cannabis Dispensary” is added to provide  
15 an express definition of that term.

16  
17 No other changes are made.  
18

19  
20 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**  
21 **ANNAPOLIS CITY COUNCIL** that the Revisor’s Notes contained in this Ordinance are not law  
22 and may not be considered to have been enacted as a part of this Ordinance.  
23

24 **SECTION III: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**  
25 **ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect from the date of its passage.  
26

27  
28 **Explanation:**

29 UPPERCASE indicates matter added to existing law.

30 ~~Strikethrough~~ indicates matter stricken from existing law.

31 Underlining indicates amendments.  
32



## STAFF REPORT ON PROPOSED LEGISLATION

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To: Mayor Gavin Buckley

From: Michael D. Mallinoff, Interim, Director of Planning and Zoning

Date: January 5, 2022

Subject: O-6-22. Medical Cannabis Dispensary

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This ordinance is, “[f]or the purpose of allowing medical cannabis dispensaries in certain zoning districts within the City of Annapolis; adding a use subject to standards; adding certain definitions; and generally relating to medical cannabis dispensaries.” As proposed, “[t]his use may not be located within a two mile radius of any other licensed premises of a licensed dispensary of medical cannabis.” Additionally, [t]his use is not permitted within 1,000 feet of the lot line of a public or private elementary, middle, or high school.” This new use would be permitted, subject to standards, in all commercial, industrial, and mixed use districts, except for C2P.

A medical cannabis dispensary is defined as “an entity licensed under the Maryland Code, Health-General Article, Title 13, Subtitle 33 that acquires, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers cannabis, products containing cannabis, related supplies, related products containing cannabis including food, tinctures, aerosols, oils, or ointments, or educational materials for use by a qualifying patient or caregiver.”

*Prepared by Michael D. Mallinoff, Interim, Director of Planning and Zoning*

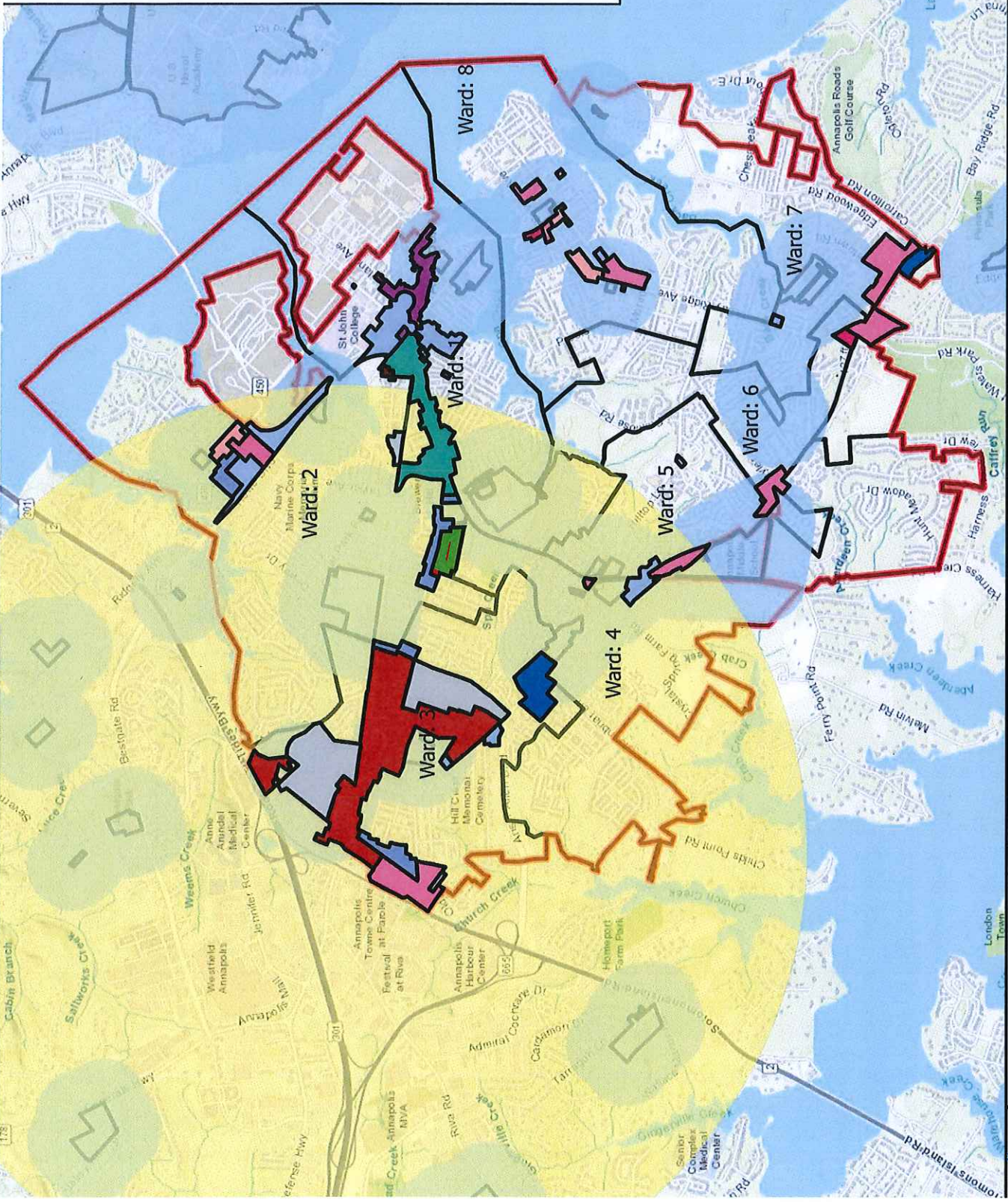
2. Map of 2 mile dispensary buffer & 1000 foot school buffer

**Legend**

- School Parcel 1000 Foot Buffer
- School Parcels
- Annapolis City Boundary
- adm\_Wards\_2012
- Marijuana Dispensary 2 Mile Buffer

**Zoning Codes**

- B1
- B2
- B3
- B3-CD
- BCE
- BR
- C2
- C2A
- I1
- MX
- P
- PM
- PM2



Department Use:

Map Created By: MIT GIS

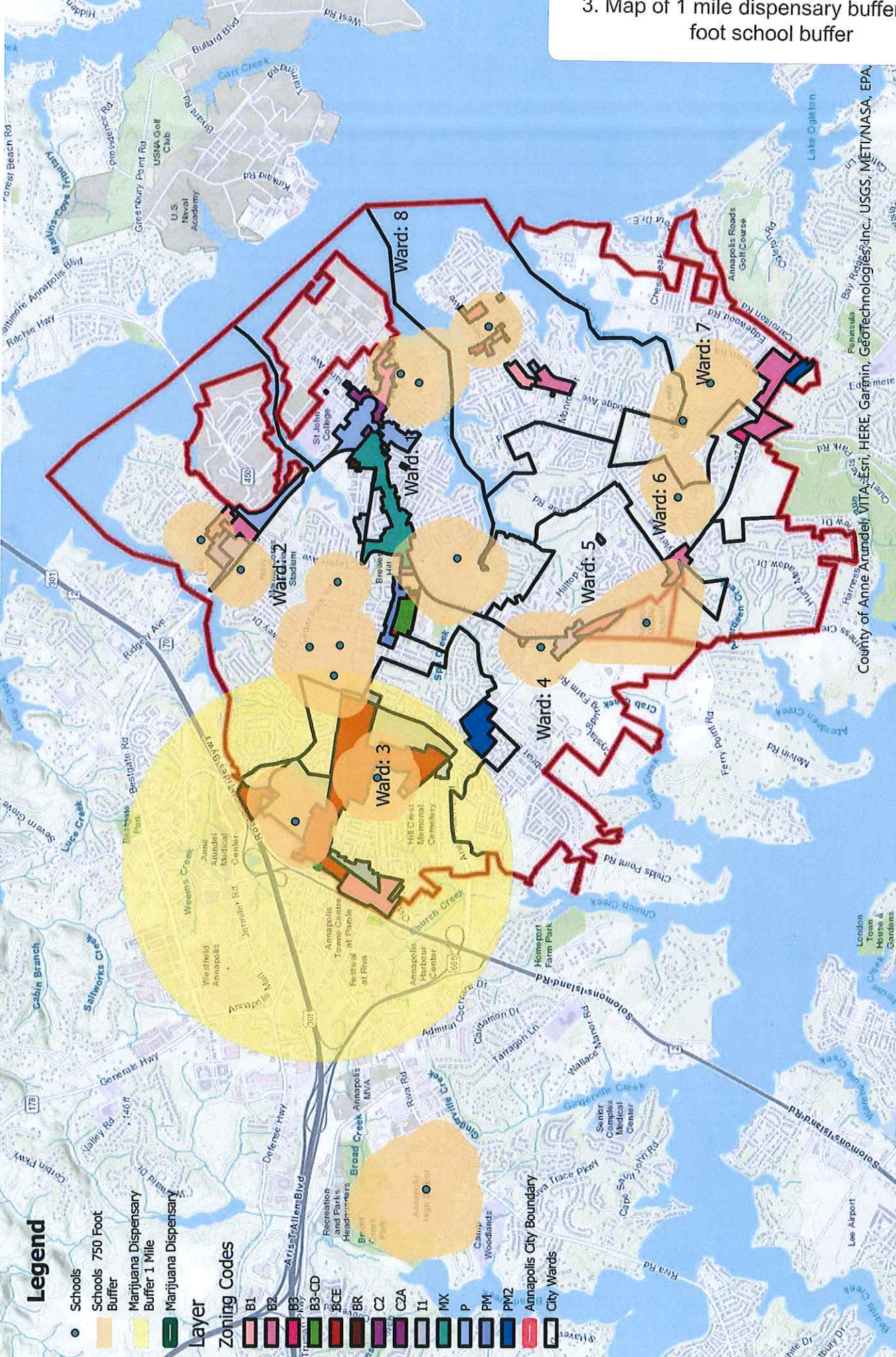
City of Annapolis MIT GIS

Proposed Locations where Medical Cannabis Dispensaries Would Be Permitted

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### 3. Map of 1 mile dispensary buffer & 750 foot school buffer



#### Legend

- Schools
- Schools 750 Foot Buffer
- Marijuana Dispensary Buffer 1 Mile
- Marijuana Dispensary

#### Layer

**Zoning Codes**

- B1
- B2
- B3
- B3-CD
- BCE
- BR
- C2
- CZA
- TI
- MX
- P
- PM
- PM2

**Other Layers:**

- Annapolis City Boundary
- City Wards

Department Use:

Map Created By: MIT GIS

Proposed Locations where Medical Cannabis Dispensaries Would Be Permitted  
 City Schools with Annapolis Middle and High School Added from the County



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## SCHOOLS - PUBLIC AND PRIVATE : ELEMENTARY, MIDDLE & HIGH

Annapolis Elementary School

Mary Moss at J. Albert Adams Academy

Georgetown East Elementary School

Eastport Elementary School

Bates Middle School

Saint Marys Catholic School

Phoenix Academy

Germantown Elementary School

West Annapolis Elementary School

Annapolis High School

Mills - Parole Elementary School

Tyler Heights Elementary School

Annapolis Middle School

The Pathways School 8th-12th

Aleph Bet Jewish Day School not currently operating

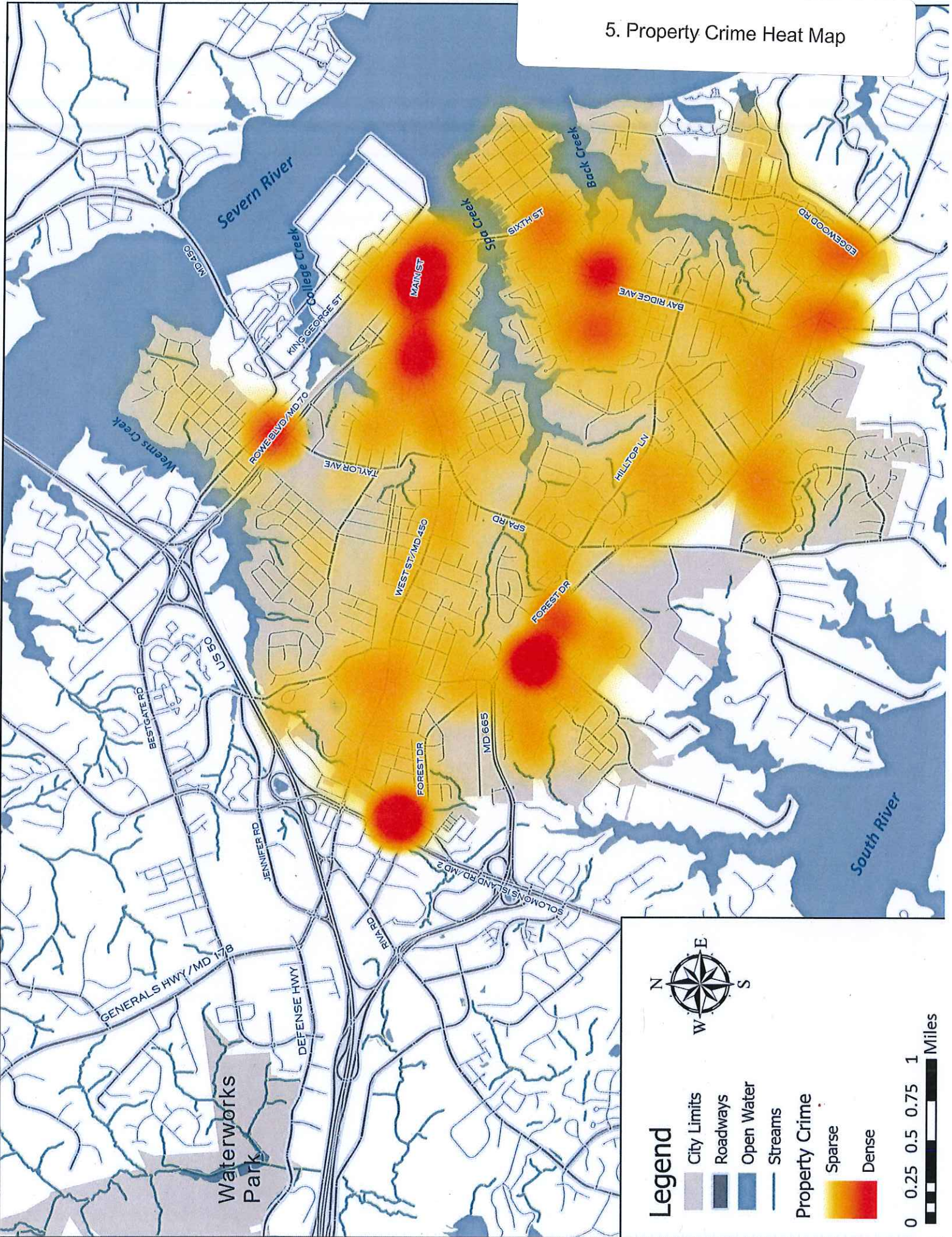
Book of Life Academy K2-5th

Monarch Academy Annapolis Public Contract School

Chesterton Academy of Annapolis K - 12th

Schools highlighted in yellow are private

# 5. Property Crime Heat Map





# 5. Violent Crime Heat Map

