

Gerry Perham
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Annapolis, MD 21403
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September 11, 2023

Re: Proposed Resolution R-43-23 in the City of Annapolis

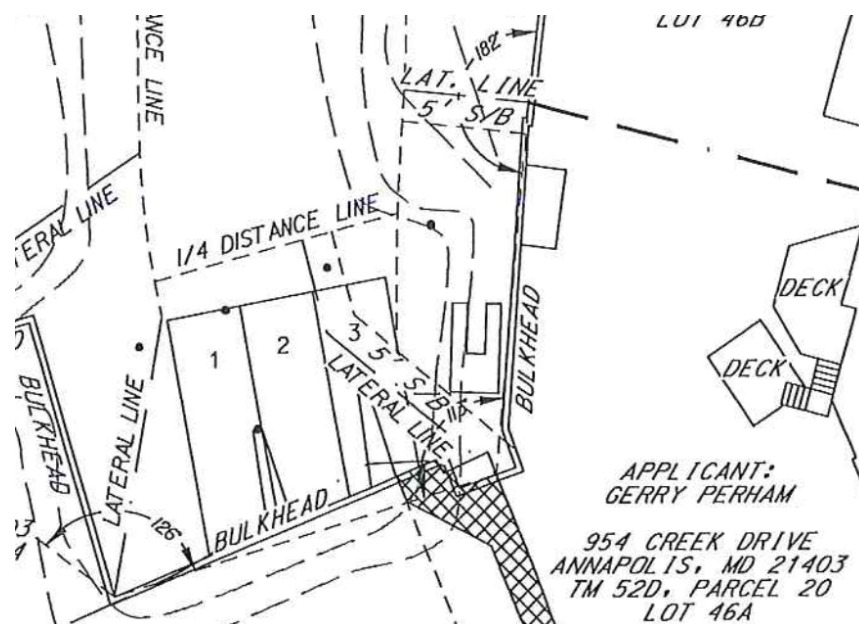
Dear Mayor Gavin and members of the Annapolis City Council,

Please include this letter and attachments in the record of proposed Resolution R-43-23.

I am Gerry Perham, owner of 954 Creek Drive in Eastport for the past five years. My property is adjacent to property owned by the Blue Heron Cove Condominium Association (BHCCA). We share a property line along the eastern side of the City's easement to Wells Cove.

Let me start by saying I recognize and respect Circuit Court Judge Warren's ruling providing water access from the City's easement to Wells Cove.

However, I'd like to remind Council members that 954 Creek Drive is not a party in the BHCCA deed of easement. I am merely an adjacent neighbor with independent riparian rights along my bulkhead abutting Wells Cove. My legally permitted floating dock is attached to the bulkhead and my piling exists in the northern direction. Both delineate 954 Creek Drive's developable waterway, as shown in the following diagram originally submitted as an attachment to Port Warden Application PORT2020-023 in October 2020.



Now to the point... the wording of R-43-23 Amendment 1 is concerning, and I believe overreaching. From the Amendment:

... The City Manager direct the Harbor Master not to allow boats or other impediments to public access to the water at Wells Cove per Title 15 § 04, Management of City Waters., and that such *impediments or approved permits for docks, piers, pilings, boats, or other impediments, be revoked or removed* to ensure immediate, unimpeded access by the public, and that the Harbor Master is directed *not to allow boats to dock nearby* that impede the public's access. [emphasis added]

Given the broad and unspecific nature of the Amendment's language, I request that Resolution R-43-23 be further amended to clarify the developable waterway and slips of 954 Creek Drive will not be impinged. More specifically, a diagram and language should be included that clarifies public water access be provided only from the easement's western side to the harbor line. Access over the storm drain on the easement's eastern side, through the developable waterway and slips of 954 Creek Drive to the harbor line should not be permitted. In fact, allowing access as drafted could violate my riparian rights, interfere with my approvals and would be contrary to Maryland law.

I am not alone in this opinion. I believe the approach was originally intended in 1986 when Resolution R-22-86 was drafted to show the easement expanding westward at the waterfront. I also believe it is the public's current intent, given the January 2021 Writ of Mandamus created by Jessica Pachler, Joseph Donahue and others. The following three sections from the Writ of Mandamus make the point.

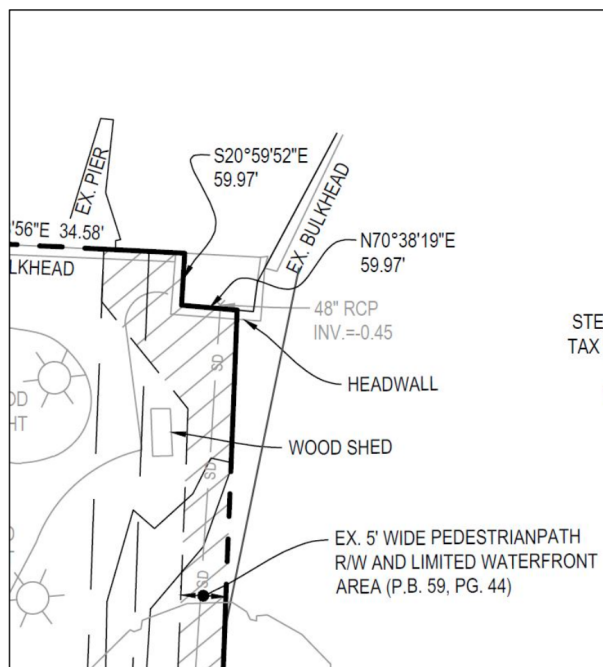


Figure 2. City's Survey includes the "5' wide pedestrian path" Right of Way and "Limited Waterfront" – the Landing. The path opens to the western side of the Landing so that the public has access to the bulkhead on the western side of the sewer outlet.



Figure 7. Photo of the Landing with a clear approach for a water taxi when there is no boat blocking the access. As reflected in Figure 2 *supra*, the western side of the Landing extends from the piling on the right (currently marked with a “No Trespassing” sign, to approximately two feet to the left of the piling in the center of this photo. As a result, the water taxi which operates in Annapolis and uses a bow ladder for ingress and egress would have no difficulty approaching the bulkhead of the landing and transferring members of the public. The ladder could be used to access small craft or kayaks.

developer of Blue Heron Cove in its Declaration of Restrictions recorded among the land records of Anne Arundel County at book 5960, folio 831. The City and Police Department must ensure the public access is protected as follows:

1. The City shall direct the owners of Blue Heron Cove Condominiums to remove the grass plantings at the end of the Right of Way which block the public from accessing the western side of the landing.
2. The City shall direct the owners of Blue Heron Cove Condominiums to install a sidewalk on the Boucher Avenue end of the Right of Way.
3. The City shall direct the owners of Blue Heron Cove Condominiums to install an oyster shell (or appropriate alternative)
4. path along the entire length of the Right of Way and across the entire Landing in accordance with and the Declaration of Restrictions filed by the developers of BHC Condominiums and the developer's incorporation of Resolution 22-86.
5. The City shall arrange for the removal of the "No Trespassing" sign on the piling directly in the middle of the Landing.
6. The City shall enforce the boundaries of the Wells Cove Public Landing as described herein, to ensure that no boats or other obstructions are allowed to block the access of the public to the water on the western side of the Landing, and, specifically, that the owner of the BHC condominium, who currently stores a boat in the center of the public access, be prohibited by the City from blocking access to the Landing.

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I affirm under penalties of perjury that the foregoing Writ of Mandamus and the facts contained therein are true and accurate to the best of my knowledge, information and belief.

Jessica L. Pachler

Thank you for considering my request to further amend R-43-23, such that public access from the City's easement to Wells Cove is unambiguous and enforceable. Private citizens and the public should both have their rights protected in Annapolis.

Regards,

Gerry Perham

Cc: Charles R. Schaller, Esq.

Attachments:

- 10-19-2020 - 954 Creek Drive Port Wardens Application: PORT2020-023
- 01-16-2021 - PETITION FOR WRIT OF MANDAMUS by petitioner Jessica Pachler
- 09-11-2023 - R-43-23 Amendment 1 – Ald Savidge