

HOWARD COUNTY BOARD OF APPEALS

IN THE MATTER OF

*

Aidan Morrell, et al.

*

Case No. BA-813D

REGARDING

*

W.R. Grace

7500 Grace Drive

*

Columbia, MD 21044

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**RESPONSE TO MOTION TO NARROW THE SCOPE OF APPEAL
AND EXCLUDE IRRELEVANT EVIDENCE**

Appellees Aidan Morrell, Sara Morrell, Golash Adadey, Nana Adadey, Hari Srinivasan, Mustafa Khaliqi, Anwer Hasan, Rasa Ramadas, Padma Swamy, Shamioka Preston, Raja Syed, Nusrat Siddique, Arundati Khuvel, Monica Tolentino, AmiCietta Clarke, and Senthil Achari (collectively, “Appellees”), by their attorney Grant Amadeus Giel, file this response to Appellant W.R. Grace & Co.-Conn’s (“Appellant’s” or “W.R. Grace’s”) Motion to Narrow the Scope of Appeal and Exclude Irrelevant Evidence.

STANDARD OF REVIEW

The standard of review in this case was only partially quoted by W.R. Grace. The full language of the relevant portion of the Express Powers Act, codified as Local Government Article Section 10-305, authorizes this Board to hear the following:

- (b) The county board of appeals may have original jurisdiction or jurisdiction to review the action of an administrative officer or unit of county government over matters arising under any law, ordinance, or regulation of the county council that concerns:
 - (1) an application for a zoning variation or exception or amendment of a zoning map;

- (2) the issuance, renewal, denial, revocation, suspension, annulment, or modification of any license, permit, approval, exemption, waiver, certificate, registration, *or other form of permission or of any adjudicatory order*;
- (3) the assessment of any special benefit tax; or
- (4) *the adjudication of a violation of an ordinance delegated in accordance with § 4-406(b) of the Courts Article.*

MD. CODE, LOCAL GOV'T § 10-305 (emphasis added). Section 4-406(1) of the Courts Article states that such delegation may occur for a “charter county for which a civil penalty is provided under § 10-202 of the Local Government Article.” MD. CODE, CTS. & JUD. PROC. § 4-406. Subsequently, the relevant portion of Section 10-202 of the Local Government article states that:

- (a) A county may enact local laws and may repeal or amend any local law enacted by the General Assembly on any matter covered by the express powers in this title.
- (b) A county may provide for the enforcement of an ordinance, a resolution, a bylaw, or a regulation adopted under this title:
 - (1) by civil fines not exceeding \$5,000; or
 - (2) by criminal fines and penalties not exceeding \$5,000 and imprisonment not exceeding 6 months.

MD. CODE, LOCAL GOV'T § 10-202.

Read cumulatively, the Board therefore has the powers to review any matter—in its entire scope—that concerns a violation of the Howard County Code initially brought before the Hearing Examiner, because the Board has powers to review violations of duly enacted local laws such as nonconformity laws, like Section 129 of the HCZR.

Under Maryland Rule 5-401, relevant evidence is defined as evidence that has “any tendency to make the existence of any fact that is of consequence to the determination of

the action more probable or less probable than it would be without the evidence.” Under Section 2.207(b) of the Board Rules of Procedure:

Any evidence which would be admissible under the rules of evidence applicable in judicial proceedings in the State of Maryland shall be admissible in hearings before the Board of Appeals. The Board is not bound by the technical rules of evidence but will apply those rules so that probative evidence may be conveniently brought forth. The Board may exclude immaterial or unduly repetitious testimony and other evidence and may limit the number of witnesses when testimony is cumulative in nature.

Appellant’s intention to read in a counterpoint to this subsection is incorrect. The “other evidence” in 2.207(b) is specifically referencing limitation to number of witnesses. The proposition that the Board may exclude evidence “that would not ‘be admissible under the rules of evidence in judicial proceedings in the State of Maryland,’” W.R. Grace Mot. at 3, is precisely contrary to what Section 2.207(b) actually states, which is that the Board is *not* bound by the technical rules of evidence and may relax them to allow probative evidence to be set forth. While the Board may deny any given piece of evidence that may be objected to in a hearing, it is not *obliged* to apply the strict Maryland Rules of Evidence as W.R. Grace suggests, nor is any other county’s board of appeals in Maryland. “[W]ithin the context of administrative proceedings, it is well-settled that administrative agencies are not bound by ‘technical common law rules of evidence.’” *Para v. 1691 Ltd. P’ship*, 211 Md. App. 335, 379 (2013) (quoting *Dickinson–Tidewater v. Supervisor*, 273 Md. 245, 253 (1974)). “As such, the rules of evidence are generally relaxed in administrative proceedings.” *Travers v. Baltimore Police Dept.*, 115 Md. App. 395, 408 (1997).

Likewise, W.R. Grace has excluded relevant portions of the definition of “violation” in the Howard County Zoning Regulations (“HCZR”), which states in whole:

Any structure erected, constructed, altered, enlarged, converted, moved or used contrary to any of the provisions of these Regulations by any person taking such action, or permitting such action, and *any use of any land* or any structure which is conducted, operated or maintained by any person using, or *permitting the use thereof, contrary to any of the provisions of these Regulations*, shall be, and the same is hereby declared to be unlawful.

HCZR § 102.0.B (emphasis added). Furthermore, review of nonconforming uses is set forth in Section 129.0, *et seq.*, which states in relevant part:

A. General

A nonconforming use is any lawful existing use, whether of a structure or a tract of land, which does not conform to the use regulations of the zoning district in which it is located, either on the effective date of these Regulations or as a result of any subsequent amendment thereto. A structure that is conforming in use but which does not conform to the height, setback, land coverage, parking, loading space or other bulk requirements of these Regulations, shall not be considered to be nonconforming within the meaning of these Regulations. No existing use shall be deemed nonconforming solely because of the existence of nonconforming accessory signs. The casual, temporary or illegal use of land is insufficient to establish the existence of a nonconforming use.

For the purposes of these Regulations, “enlargement” shall mean the increase in size of any structure containing a nonconforming use, the construction of an additional structure on the same lot, or an increase in the land area occupied by a nonconforming use. “Extension” shall mean any change in the types of activities taking place in connection with the nonconforming use.

B. Restrictions on Nonconforming Uses

The nonconforming use of land or structures may be continued, subject to the following:

1. Except as provided in Sections 129.0.B.3 and 129.0.E:
 - a. No nonconforming use shall be extended or enlarged to occupy more land area or more area within a building than that occupied by the use at the time it became nonconforming;

- b. No structure which contains a nonconforming use shall be enlarged unless the use therein is changed to a conforming use or the new portion of the structure is used for a conforming use; and
- c. No structure which contains a nonconforming use shall be structurally altered unless such alterations are required by law; provided however, that such maintenance and repair work as is required to keep a nonconforming structure in sound condition shall be permitted.

* * *

D. Confirmation of Nonconforming Uses

1. The factual existence of a nonconforming use may be confirmed by the Director of Planning and Zoning, or the Director's Designee, upon review of a petition filed by the property owner. The petition shall contain the following:
 - a. A statement and plans or other illustrations fully describing the magnitude and extent of the nonconforming use.
 - b. A statement identifying the date the use became nonconforming to the use provisions of the Zoning Regulations.
 - c. Documentation substantiating the existence of the use on the date it became nonconforming and clearly demonstrating the continued and uninterrupted use or operation thereof from the specified date to the time of filing the application. The burden shall be on the property owner to establish the existence of the nonconforming use.
2. Whenever the Department of Planning and Zoning issues a zoning violation notice alleging the illegal use of property, the owner may raise as a defense the fact that the alleged illegal use is a nonconforming use. If such a defense is raised, the owner shall also seek confirmation that the use is nonconforming and shall submit a petition which includes all of the information required by Subsection a above. At the property owner's discretion, such a petition may be filed with either the Department of Planning and Zoning as provided herein or the Hearing Authority.

If the owner chooses to file the petition with the Hearing Authority, the petition shall be advertised and the property posted with the time, date and place of the initial hearing for at least 30 days immediately before the hearing, in accordance with the advertising and posting requirements of Section 2.203 of the Howard County Code. In its Decision on such a petition, the Hearing Authority may determine and confirm the existence of the nonconforming use pursuant to its original jurisdiction.

3. Petitions for confirmation of a nonconforming use filed with the Department of Planning and Zoning shall be heard in accordance with the procedures given in Section 100.0.H.
4. The decision of the Director of Planning and Zoning or the Director's Designee is appealable to the Hearing Authority on a de novo basis.

E. Extension, Enlargement or Alteration of Nonconforming Uses

1. The Hearing Authority may authorize the extension or enlargement of a nonconforming use or the alteration of outdoor use areas or of a structure containing a nonconforming use, with or without conditions, provided:
 - a. That any changes or additions to the activities taking place in connection with the nonconforming use will not change the use in any substantial way;
 - b. That an enlargement may not exceed 100% of the gross floor area of structures or 100% of the gross acreage in the case of nonconforming land, above that which legally existed at the time the use first became nonconforming;
 - c. That the boundaries of a nonconforming use may be enlarged only to provide additional parking area;
 - d. That an enlargement would not cause a violation of the bulk regulations for the zoning district in which the property is located;
 - e. That the extension, enlargement or structural alteration would not cause an adverse effect on vicinal properties.

Probative evidence would therefore be any evidence that would speak to the likelihood of a violation of the HCZR as defined either by the scope of the "Violations" subsection in Section 102.0 *or* the scope of the "Nonconformity" subsections in Section 129.0. Furthermore, it is in *no way* a controversial matter as to whether W.R. Grace intends to operate a pilot plant at the Subject Property. Its own owners have testified to such intent under oath, and it has spent years of lobbying and regulatory work to acquire relevant permitting documentation for such operations. To this end, W.R. Grace's suggestion that its own permits and sworn testimony should be excluded from consideration by the Board

is both contrary to judicial economy *and* the county and state rules of evidence—which both permit for the submission of probative evidence to demonstrate the likelihood of a contested evidentiary matter.

ARGUMENT

I. The evidence of the future pilot plant implementation is both material and probative.

Appellant W.R. Grace attempts, prior to any actual hearing before the Board, to curtail the broad majority of testimony and evidentiary exhibits to be provided by Appellees, on the basis of mistaken analysis of state and county law, contrary to the typical evidentiary standard engaged in by boards of appeal, and clearly sophistic in its ambit. It was uncontested before the Hearing Examiner (“HE”) that W.R. Grace has been imminently planning to construct a pyrolysis pilot plant. All exhibits provided to the HE by Appellees were introduced into evidence during those hearings without any objection regarding referral to future activities, and likewise all testimony provided by Appellees’ witnesses was accepted without any similar objection. W.R. Grace previously pulled permits relevant to construction of the pilot plant at the county level and applied for state-level permitting to do the same. *See* Exhibit 1 (combining Appellees’ Exhibits 10, 11, and 12 from the HE hearings). W.R. Grace’s own witnesses testified that this use *is* imminent, and had it not been for the HE’s determination to remand back to the Department of Planning and Zoning (“DPZ”) for additional review, W.R. Grace may well have already activated the pilot plant. As stated in relevant part by the HE when summarizing the evidence submitted by Appellees:

Grace has obtained a building permit to alter its facility for the Pilot Plant. Grace has not proffered a condition that the Pilot Plant will never be enlarged, extended, intensified or expanded. DPZ admitted that it made no attempt to review the building permit and apparently signed off on the development in part because it didn't see Grace doing anything *yet* with a Pilot Plant that it self-evidently was planning to implement for at least a year *and* previously requested DPZ to write to MDE in defense of the same implementation, and for which Grace was actively seeking state permits. *See* Exs. 6, 7 & 12.1.

Grace has installed additional equipment and is retrofitting Building 30 to accommodate the proposed Pilot Plant for pyrolysis. Grace has stated that it will be operating a Pilot Plant for pyrolysis and provided details of the scope of its Pilot Plant. The fact that the proposed use was not operational as of the DPZ site visit in September of 2024 in no way controls the analysis of whether what Grace *plans* to do is an illegal extension/transmogrification of a previous R&D use. For DPZ to argue otherwise is to admit that they are ostriches putting their heads in the sand to ignore that which is occurring all around them.

HE D&O at 26. In its document submissions to MDE, W.R. Grace had even provided an internal photograph of then-constructed machinery designed to facilitate the nascent pilot plant, which is reproduced below (and attached independently) as Exhibit 2:



The HCZR clearly permits DPZ review of any permitted *planned* use alongside any currently existing use, particularly when a challenge to that use is on the basis of nonconformity and thus subject to the provisions of Section 129 and when that use is being contemporaneously constructed and/or permitted at the time of DPZ review of a complaint.

One would think that W.R. Grace would like to resolve this question of use classification promptly so that it may proceed with its development goals in the event that the Board sided in its favor and determined that the pilot plant was a lawful nonconforming use intensification. In reality, what would necessarily occur if the Board were to grant W.R. Grace's motion would be that Appellees would need to wait for W.R. Grace to "break ground," and then file the *exact same zoning complaint*, go through this entire process again, hear new arguments about how W.R. Grace had simply intensified a previously approved use by DPZ, and relitigate questions that are already perfectly clear and capable of review by this Board at this time. It is, in essence, a species of the "capable of repetition yet evading review" exception to the judicial mootness doctrine, which states that a court may review an appeal that is otherwise moot when "(1) the challenged action was too short in its duration to be fully litigated prior to its cessation or expiration; and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again." *State v. Parker*, 334 Md. 576, 585–86 (1994). While not directly equivalent to this principle—because Appellant W.R. Grace has not argued that the case is moot in a motion to dismiss—the underlying legal rationale is appropriate. The challenged action in this case is a well-publicized and imminent expansion of a nonconforming use operated at the Subject Property, that according to Exhibits 1 and 2—and other materials to be

submitted by Appellees during forthcoming hearings—was being contemplated and planned for *at least* two years prior to this action, has received permitting approvals from the Howard County Department of Inspections, Licenses, and Permits, and recently received permitting approvals from the Maryland Department of Environment (subject to, ironically, a zoning approval that there is no nonconformity violation by DPZ). Likewise, there is an expectation that, because this action is imminent, it *will* occur if this appeal is dismissed or curtailed in the manner imagined by W.R. Grace, such that a subsequently filed zoning complaint by Appellees or other interested persons will undertake (presumably) the same trajectory of cursory rubberstamping review by DPZ, appeal to the HE, subsequent appeal to this Board, then anticipatory judicial review by either Appellees or Appellant depending on this Board's disposition, all to answer a questions that could be answered *now*: **Is the pilot plant an expansion of a nonconforming use or not, and did DPZ conduct a proper and thorough review of the zoning complaint filed pursuant to that prior question?**

Even if W.R. Grace were hypothetically correct that a future proposed use for which there is no current evidence of implementation could not be properly reviewed by DPZ, that is simply not the factual pattern of this case. This Board is not dealing with some speculative faraway use based on a half-heard rumor. The appeal before it is one of an *imminent* use expansion, that had incontrovertible and undisputed evidence from county and state regulators *and* from W.R. Grace itself as to its imminent implementation, and was in the administrative process of being implemented at the time that Appellees filed their initial complaint and subsequent appeal to the HE. *See* Exs. 1 & 2. DPZ had more than

adequate knowledge of this proposed use given that DPZ officials were *actively communicating with W.R. Grace about it a year prior to the Complaint*. See September 2023 Correspondences, attached as Exhibit 3.

Appellant's notion that "merely applying for or contemplating a future use cannot be construed as a current zoning violation," Mem. 5, ignores both the fact that violations encompass the permitting of a use contrary to the provisions of *any* of the HCZR, and that the nonconformity provisions in Section 129.0.D.4 authorize the review of exactly the sort of decision that would permit a violative use on the basis of it being a legal nonconformity, stating: "The decision of the Director of Planning and Zoning or the Director's Designee is appealable to the Hearing Authority on a de novo basis." It likewise ignores the fact that this is not some mere "contemplat[ion of] a future use," see W.R. Grace Mot. at 5, but rather an actively and deliberately sought expansion of such use with the coordination of DPZ. To suggest that an imminent construction with detailed parameters cannot be reviewed because it isn't fully operational yet is directly analogous to suggesting that an administrative body cannot review a DPZ-approved detailed site plan "because the site isn't constructed yet and therefore no present violations have occurred." The tacit and then explicit approval by DPZ of an imminent use on the basis that it wasn't *yet* violative is, as the HE described it, is like "ostriches putting their heads in the sand." See HE D&O at 26.

W.R. Grace's subsequent suggestion that Appellees were somehow "bootstrapping" a future use to their Complaint and that they "recognize this fact and took pains . . . to tie their complaints to existing activities," W.R. Grace Mot. at 5, is a legalistic distortion of vernacular descriptions prepared by the then-unrepresented lay complainant Nana Adadey.

The allegations levied in this Complaint and Appellees' subsequent HE Petition on October 11, 2024 were in relation to the—again, entirely uncontroversial, imminent, and otherwise *inevitable*—expansion of the facility to include a new pilot plant, and the well-documented plans, permits, and correspondences related to such an expansion. The Appellees, specified the scope of their concerns to DPZ via email and phone correspondence, and then a motion for reconsideration, which are incorporated in the initial BA-813D Petition. Nana Adadey's descriptions of W.R. Grace activity in her August 6, 2024 Request to Conduct Zoning Inspection were later thoroughly clarified by Appellees that their overarching focus was related to the pyrolysis pilot plant.

It is important for the Board to internalize what counsel for all Parties and the HE all understood: that under Maryland common law, expansion or transmogrification of an existing nonconforming use is prohibited, while intensification of that use may be permitted under certain parameters. "The intensification of a non-conforming use, in short, is permissible so long as the nature and character of the use is unchanged and substantially the same facilities are used." *Trip Assocs., Inc. v. Mayor & City Council of Balt.*, 392 Md. 563, 583 (2006). Therefore, when reviewing an appeal that alleges that a nonconforming use is in the process of expanding in a manner contrary to common law and Section 129 of the HCZR, it is not only material and probative to consider testimony and evidence related to the upscaling of site activities—or construction of new facilities—for a proposed pilot plant, but it is *imperative* to do so. Otherwise, W.R. Grace could argue, as it argued before the HE, that its pilot plant is minimal in scope and fully within the parameters of the previously existing nonconforming use, and then it could subsequently increase the scale

of operations while claiming that it is merely intensifying a previously approved use. As described by the HE:

Grace argues it is proposing to initially operate on a very small scale and has no plan in place currently to affirmatively scale up the size or intensity of the use, but therein lies the slippery slope by which it can add a new use under the guise of R&D. After all, intensification by itself is permitted for a nonconforming use.

* * *

Thus, if this facility were to be deemed in its current scale as a non-extending R&D nonconformity with the facilities currently being installed, a subsequent drastic increase in intensity would not be grounds for it to be subsequently challenged, as it could be argued that the Pilot Plant was determined to be R&D years prior.

HE D&O at 25. Because testimony and exhibits related to a proposed and imminent future use are both material and probative to the question of whether the pilot plant is an expansion of a nonconforming use, it is therefore inappropriate to exclude such evidence from the Board hearings. Likewise, because DPZ had both the authority and responsibility to review a complaint for potential violations related to a nonconforming use, evidence related to that future expansion is material and probative to answer the question of whether DPZ committed any legal error in its review of the Subject Property.

II. There is no provided rationale for any of the common law exceptions to probative value, nor any hypothetical basis for such exceptions.

“Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” *Ford v. State*, 462 Md. 3, 47 (2018) (quoting Md. Rule of Evidence 5-403). While such standards are almost *invariably* considered only in the context of

contested court hearings in criminal cases where the Maryland Rules are in full effect (versus administrative hearings where they are quite definitively *not* fully enforced and may be lessened at the discretion of administrative tribunals to facilitate smooth hearings), it is nevertheless appropriate to briefly address these exceptions.

First and foremost, W.R. Grace provided no rationale whatsoever in its motion for considerations of unfair prejudice, misleading the jury (not that there *is* a jury), undue delay, waste of time, or presentation of cumulative evidence. Indeed, the manner in which the Parties had agreed to present testimony before the HE resolved latent concerns of time expenditures and streamlined testimonial accounts with prepared statements, and the Appellees endeavored to avoid undue repetition of similar testimonies. It would, Appellees contend, be *more* prejudicial to the Appellant to *not* consider their evidence related to the pilot plant's installation at this time since failing to do so will result in a second complaint (and hearing process) filed after the Appellant has fully installed and operated the use it is presently seeking to install, and thus waste prodigious amounts of capital and manpower.

The only notable reference to any of these exceptions to probative value was "confusion of the issues," which W.R. Grace invokes in Section II.B of its memorandum. W.R. Grace sums up its argument by saying that "It risks conflating environmental permitting with zoning enforcement and undermines the clarity of the Board's role in adjudicating this appeal." W.R. Grace Mot. at 7. This is incorrect. Appellees are not seeking any determination by this Board that the MDE permit was somehow wrongly constructed or decided, but are rather presenting any impact-based testimony in accordance with Section 129.0.E.1.e, which allows a Hearing Authority (be it the HE or the Board) to

authorize an “extension or enlargement of a nonconforming use” if it “would not cause an adverse effect on vicinal properties” (and by corollary, would not permit the Hearing Authority to authorize such extension if it did cause an adverse impact as determined by the Hearing Authority, without reference or deference to MDE’s activities). Because the review of a nonconforming use violation is as much regulated by the provisions of Section 129 as it is by the provisions of Section 102, testimony related to potential future impacts of vicinal properties is both material and probative to answer this question, and rather than confusing the issues, it provides necessary clarity for the issues.

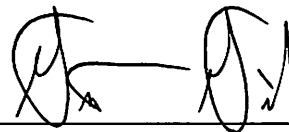
It may be the case that, like the HE, the Board hears all evidence and testimony by Appellees and decides that it need not reach the question of “harm to the neighborhood” because such a question is “premature in light of the legal errors committed by DPZ,” but such a determination is one of post-hearing judicial minimalism versus pre-hearing evidentiary weight. Thus, because such testimony of the future use, and its potential impacts as regaled by Appellees’ expert witnesses, is squarely related to the standards of review to be employed by the Board in this case, hearing such evidence would not cause any confusion of issues.

CONCLUSION

The “future use” at the Subject Property was future in name only. For all intents and purposes, it had begun to form years prior, and by the time Appellees filed their Complaint, W.R. Grace had filed permits for the proposed use, received preliminary correspondences from DPZ related to the proposed use, and drafted and submitted a voluminous state regulatory permit in furtherance of implementing the proposed use. DPZ would not have

been expected to speculate about a “possible” use at the time the Complaint was filed because there was already ample evidence to know *exactly* what W.R. Grace was seeking to build. The Appellant’s attempt to curtail this evidentiary hearing in the manner proposed would do nothing more than kick the ball down the road and compel Appellees to file a fundamentally identical Complaint after the pilot plant began operations (presumably at substantial cost of implementation on the Appellant’s end), and frustrate judicial economy by delaying review of a question that can be answered in this instant case. For these reasons, it is clear that under the County regulations and state law that evidence and testimony related to the pilot plant’s construction—including references to the MDE permit and expert testimony about the nature and scalability of pilot plants—is both material and probative, and absent any of the enumerated exceptions to probative value, the Board should consider the full range of exhibits and testimony previously considered by the HE.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'G. Amadeus Giel', written over a horizontal line.

Grant Amadeus Giel, Esq.
AIS No. 2002200011
Law Office of G. Macy Nelson, LLC
600 Washington Avenue, Suite 202
Towson, Maryland 21204
(410) 296-8166
grant@gmacynelson.com

Attorney for Appellees

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of August, 2025, a copy of the foregoing Response to Motion to Narrow the Scope of Appeal and Exclude Irrelevant Evidence was served electronically and/or by first class mail, postage prepaid, on:

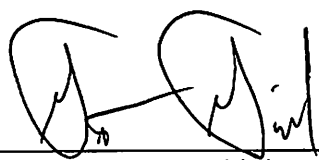
Howard County Board of Appeals
c/o Kel L. Berg, Board Administrator
3430 Court House Drive
Ellicott City, Maryland 21043

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Attorney for the Howard County Department of Planning and Zoning

Tom Coale, Esq.
Perry Jacobson
54 State Circle
Annapolis, MD 21401
(443) 630-0507
tom@perryjacobson.com
Attorney for W.R. Grace & Co.-Conn

I FURTHER CERTIFY, pursuant to Howard County Board of Appeals Rules and Procedures § 2.207(e), that I provided a copy of this Response to all persons known to have an interest in the case, including but not limited to the Petitioner, the property owner, the administrative agency, and any person entitled to written notification under rule 2.203(e) and (f) with the following statement:

ANY PERSON INTERESTED IN RESPONDING TO THIS RESPONSE SHALL FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN FIFTEEN DAYS OF THE DATE THIS MOTION WAS FILED.



Grant Amadeus Giel

EXHIBIT 1

HOWARD COUNTY
DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS
3430 COURT HOUSE DRIVE - ELLICOTT CITY, MD 21043
*** THIS PERMIT MUST BE CONSPICUOUSLY POSTED ON SITE ***

Commercial Alteration Permit

PERMIT NUMBER: B24001349

APPLICATION DATE: 4/14/2024

ISSUE DATE: 5/13/2024

SITE ADDRESS:

7500 GRACE DR, BLDG 30
COLUMBIA, MD 21044

PROPERTY OWNER INFO:

GRACE CO W R
7500 GRACE DR
COLUMBIA, MD 21044
Phone #: 2022551978

Subdivision: Grace Tech Park

Lot No.: A

Tax Map: 35

Grid: 35-22

ADC Map: 4934-F10

SDP No.: SDP-12-077

Zoning: PEC

Census Tract: 605501

DESCRIPTION OF WORK:

BUILDING 30/ LAB 120 / WR GRACE/ THE EXTERIOR DOOR AT THE REAR OF BLDG 30 IS TO BE REMOVED, AND THE OPENING ENLARGED TO ACCOMMODATE A NEW ROLL UP OVERHEAD DOOR. INSIDE BLDG 30 AT THE ENTRANCE OF LAB #120, THE ENTRY DOORS ARE TO BE REMOVED, OPENINGS ENLARGED, AND NEW DOUBLE DOORS INSTALLED. INSIDE LAB 120, AN APPROX 10'X26' SECTION OF THE EXISTING 6" CONCRETE FLOOR IS TO BE REMOVED AND REPLACED WITH 8" CONCRETE FLOOR TO ACCOMMODATE PROPOSED NEW EQUIPMENT FOR THE SPACE. THERE IS PROPOSED NEW EQUIPMENT FOR THE ROOF OF BLDG 30, WHICH WILL REQUIRE SOME STRUCTURAL MODIFICATIONS TO THE ROOF STEEL.

PRIMARY CONTRACTOR INFO:

Contractor License No.: 03121527

License Address: TOURGEE AND ASSOCIATES INC

600 RED BROOK BLVDSTE 300
Phone #: OWINGS MILLS, MD 21117
410-356-3108

PRIMARY CONTACT INFO:

Contact Type: CONTACT
TAI ENGINEERING

600 RED BROOK RD
OWINGS MILLS, MD 21117

Phone #: 4439550857

Building/Lot Characteristics

Legal Description: IMPSPAR A 54.802 A.[]7500 ROUTE 32[]GRACE TECH PARK

Existing Use:

Water Supply: Private

Height:

Sewage Disposal: Private

Basement:

SF # of Bedrooms:

SF # of Full Baths:

SF # of Half Baths:

Zoning Setback Requirements:

Front - Proposed: Required:

Rear - Proposed: Required:

Side - Proposed: Required:

Side Street - Proposed: Required:

Meets Minimum Required Setbacks?: Yes

Lot Coverage for NT Zoning:

Permit Fees:

Total Fees Invoiced: \$816.24

Total Fees Paid: \$816.24

Balance Due: \$0.00

April 16, 2024

Plan Review Department
Howard County Department of Inspections, Licenses & Permits
3430 Courthouse Drive
Ellicott City, MD 21043
410-313-2455

Re: W.R. Grace – Building 30 Modifications Permit
7500 Grace Drive Columbia, MD

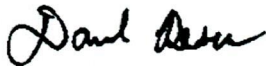
Dear Plan Review Staff,

This letter is intended to accompany a building permit application including Documents wherein building modifications are shown at W.R. Grace's Building 30 at its Columbia campus. Building 30 is an existing, ~40,000SF mixed-use service building, comprised of office space and active laboratories on the ground level. In addition to these functions, there are several unoccupied spaces in the building for various supporting systems. Approximate areas are shown below:

Floor	Space Description	Approx. Area (SF)
1	Laboratories	4,400
1	General Storage	3,300
1	Utility Rooms	2,800
1	Restrooms (M&W)	800
2	General Storage	3,300
2	Utility Rooms	200
2	Undeveloped Space	6,100
2	Restrooms (M&W)	500
All	Offices, conference rooms, corridors, elevator	18,600

If you need anything additional or have any questions, do not hesitate to contact me at 410-531-4570 or at daniel.resca@grace.com. Alternatively, you may direct questions to the Construction Manager on this project, Mike Kfoury at michael.kfoury@taiengineering.com or 443-955-0857.

Sincerely,



Daniel Resca
Project Manager

Home Building Fire Licenses Enforcement

Search Applications Create an Application Schedule an Inspection

Building B24001349:
Commercial Alteration Permit
Record Status: Issued

Add to cart
Add to collection

Record Info Payments Custom Component

Work Location

7500 GRACE DR *
BLDG 30
COLUMBIA MD 21044

Application Details

Applicant:

Michael Kfoury
Tourgee and Associates Inc
600 Red Brook Rd
suite 300
owings mills, MD, 21117
Phone: 443-955-0857
michael.kfoury@taiengineering.com

Licensed Professional:

SMCCOOL@TAIENGINEERING.COM
TOURGEE AND ASSOCIATES INC
600 RED BROOK BLVD STE 300
OWINGS MILLS, MD, 21117
Primary Phone: 410-356-3108
Contractor 03121527

Description of Work:

BUILDING 30/ LAB 120 / WR GRACE/ The exterior door at the rear of Bldg 30 is to be removed, and the opening enlarged to accommodate a new roll up overhead door. Inside Bldg 30 at the entrance of Lab #120, the entry doors are to be removed, openings enlarged, and new double doors installed. Inside Lab 120, an approx 10'x26' section of the existing 6" concrete floor is to be removed and replaced with 8" concrete floor to accommodate proposed new equipment for the space. There is proposed new equipment for the roof of Bldg 30, which will require some structural modifications to the roof steel.

Owner:

GRACE CO W R *
7500 GRACE DR
COLUMBIA MD 21044
United States
Primary Phone: 202-255-1978
daniel.resca@grace.com

More Details

Related Contacts

Contact information

Michael Kfoury
TAI Engineering
600 Red Brook Rd
owings mills, MD, 21117
Phone: 443-955-0857
Cell 443-955-0857
E-mail: michael.kfoury@taiengineering.com

Additional Information

Please Enter Estimated Construction Cost Dollar Amount
\$1,300,000.00

☒ Application Information

Utility Information

Utilities: Gas and Electric
Water Supply: Private
Sewage Disposal: Private
Heating System: Other - See Description of Work
Geothermal: No
Sprinkler System: Full
Fire Alarm: Yes

Building Information

Roadside Tree: No
Project Permit:
Fee Exempt: No
Capital Project- No Fee:
Was Tenant Space previously occupied: Yes
Previous Use: Research Lab
Proposed Use: Research Lab
Tenant: W.R. Grace
Area of Construction - SQ FT: 1720

☒ Parcel Information

Property ID937964 *

Block:--

Lot:A Subdivision:--

TAX ID: 1405351251

SUBDIVISION NAME: Grace Tech Park

TAX MAP: 35

GRID: 35-22

ZONING DISTRICT: PEC

ADC MAP: 4934-F10

SUBDIVISION FILE NUMBER: SDP-12-077

FILE NUMBER: ECP-12-014

RECORD PLAT: 21234-2123

OWNER OCCUPIED: N

YEAR BUILT: 2018

HISTORIC DISTRICT: N

STAT AREA: 5-05

FLOOD PLAIN: N

Home Building Fire Licenses Enforcement

Search Applications Create an Application Schedule an Inspection

Building E24002597:
Commercial Electrical Permit
Record Status: Issued

Add to cart
Add to collection

Record Info Payments Custom Component

Work Location

7500 GRACE DR *
COLUMBIA MD 21044

Application Details

Applicant:

GREGORY WILDER
TAI SPECIALTY CONSTRUCTION INC
600 RED BROOK BLVD SUITE 300
OWINGS MILLS, MD, 21117
Phone: 4109032610
Fax: 4103563109
greg.wilder@taisci.com

Licensed Professional:

GREGORY WILDER greg.wilder@taisci.com
TAI SPECIALTY CONSTRUCTION INC
600 RED BROOK BLVD SUITE 300
OWINGS MILLS, MD, 21117
Primary Phone: 4109032610
Other: 4103563109
HC Elec State ES 10725

Description of Work:

Building 30 Wr grace / Lab / (1) 400 amp feeder; (1) 11.2kva
transformer b24001349

Owner:

GRACE CO W R *
7500 GRACE DR
COLUMBIA MD 21044
United States
Primary Phone: 410-903-2610

More Details

Related Contacts

Contact information

GREGORY WILDER
TAI SPECIALTY CONSTRUCTION INC
600 RED BROOK BLVD SUITE 300
OWINGS MILLS, MD, 21117
Phone: 4109032610
Fax: 4103563109
E-mail: greg.wilder@taisci.com

Application Information

Electrical Information

Capital Project- No
No Fee:

Fee Exempt: No

Building Permit B24001349
No:

Permit Type: Addition

Tenant: wr grace

Field Contact Name: gregory wilder
Field Contact Phone No: 4109032610
Service: 400
Equipment AMPS:
Utility: BGE
Company:

☐ Application Information Table

EQUIPMENT AND APPLIANCES

TYPE OF EQUIPMENT / APPLIANCE:	Transformers
QUANTITY FOR EACH TYPE:	1
SIZE:	112
AMPS / KW / HP:	KVA

PANEL FEEDERS AND SUB PANELS

AMP RANGE (do not include transformer secondary panels):	201 - 400 AMPS
AMPS FOR THIS PANEL:	400

☐ Parcel Information

Property ID937964 *

Block:--

Lot:A

Subdivision:--

TAX ID: 1405351251

SUBDIVISION NAME: Grace Tech Park

TAX MAP: 35

GRID: 35-22

ZONING DISTRICT: PEC

ADC MAP: 4934-F10

SUBDIVISION FILE NUMBER: SDP-17-006

FILE NUMBER: ECP-12-014

RECORD PLAT: 21234-2123

OWNER OCCUPIED: N

YEAR BUILT: 1968

HISTORIC DISTRICT: N

STAT AREA: 5-05

FLOOD PLAIN: N

Home Building Fire Licenses Enforcement

Search Applications Create an Application Schedule an Inspection

Building P24001974:
Commercial Plumbing Addition Alteration Permit
Record Status: Completed

Add to cart
Add to collection

Record Info Payments Custom Component

Work Location

7500 GRACE DR *
BLDG 30
COLUMBIA MD 21044

Application Details

Applicant:

JOSEPH M GAST
MECHANICAL ENGINEERING & CONSTRUCTION CORPORATION
6159 EDMONDSON AVENUE SUITE A
SATONSVILLE, MD, 21228-1895
Phone: 4432001000
Fax: 4432001005
JOEG@M-CORP.US

Licensed Professional:

JOSEPH M GAST JOEG@M-CORP.US
MECHANICAL ENGINEERING & CONSTRUCTION CORPORATION
6159 EDMONDSON AVENUE SUITE A
SATONSVILLE, MD, 21228-1895
Primary Phone: 4432001000
Other: 4432001005
Plumb/Gas 20020072367

Description of Work:

BUILDING 30/ LAB 120 / WR GRACE/ RELOCATE 1-EXISTING LAB
SINK, 1-ELECTRIC WATER HEATER, AND REPIPE 1-EMERGENCY
SHOWER

Owner:

GRACE CO W R *
7500 GRACE DR
COLUMBIA MD 21044
United States
Primary Phone: 202-255-1978
daniel.resca@grace.com

More Details

Additional Information

Please Enter Estimated Construction Cost Dollar
Amount
\$1,300,000.00

Application Information

Plumbing Information

Capital Project- No
No Fee:

Fee Exempt: No

Replacement: No

Building Permit No: B24001349

Existing Use: Commercial Int Alteration

Total Number
of Regular
Plumbing 1

Fixtures (Not
Gas):

Gas Meter: Neither

Please specify each fixture that you will be installing and location.: RELOCATE 1-EXISTING LAB SINK, 1-ELECTRIC WATER HEATER, AND REPIPE 1-EMERGENCY SHOWER

If installing a Backflow preventer, please specify the make and model: N/A

☒ Parcel Information

Property ID937964 *

Block:--

Lot:A

Subdivision:--

TAX ID: 1405351251

SUBDIVISION NAME: Grace Tech Park

TAX MAP: 35

GRID: 35-22

ZONING DISTRICT: PEC

ADC MAP: 4934-F10

SUBDIVISION FILE NUMBER: SDP-12-077

FILE NUMBER: ECP-12-014

RECORD PLAT: 21234-2123

OWNER OCCUPIED: N

YEAR BUILT: 2018

HISTORIC DISTRICT: N

STAT AREA: 5-05

FLOOD PLAIN: N

Home Building Fire Licenses Enforcement

Search Applications Create an Application Schedule an Inspection

Building E24004568:
Commercial Electrical Permit
Record Status: Review In Process

Add to cart
Add to collection

Record Info Payments Custom Component

Work Location

7500 GRACE DR *
COLUMBIA MD 21044

Application Details

Applicant:

John Boddiford
Lee's Electrical Contracting, Inc
7100 Golden Ring Road Suite 106
Essex, MD, 21221
Phone: 4106826500
Fax: 4106870240
john.boddiford@leeselectrical.com

Licensed Professional:

JOHN M BODDIFORD john.boddiford@leeselectrical.com
LEES ELECTRICAL CONTRACTING
7110 GOLDEN RING RD SUITE 106
ESSEX, MD, 21221
Primary Phone: 4106826500
Other: 4106872994
HC Elec State ES 08875

Description of Work:

W r grace/ Provide 120volt 20 amp branch power circuits to gas monitors & sensors in buildings #1, #2, #16, #22, & #30 total of (15) controllers. Provide power connections to remote strobe warning lights total of (31)

Owner:

GRACE CO W R *
7500 GRACE DR
COLUMBIA MD 21044
United States
Primary Phone: 410-531-4000

More Details

Related Contacts

Contact information

John Boddiford
Lee's Electrical Contracting, Inc
7100 Golden Ring Road Suite 106
Essex, MD, 21221
Phone: 4106826500
Fax: 4106870240
E-mail: john.boddiford@leeselectrical.com

Application Information

Electrical Information

Capital Project: No
No Fee:

Fee Exempt: No

Permit Type: Alteration

Tenant: w r grace

Field Contact Name: josh langrill

Field Contact 4434175269
Phone No:
Service 0.0
Equipment
AMPS:
Utility BGE
Company:
Equipment List 15- gas monitor controllers 15- remote sensors 31 strobe lights
Comments:

☒ Parcel Information

Property ID937964 *

Block:--

Lot:A Subdivision:--

TAX ID: 1405351251

SUBDIVISION NAME: Grace Tech Park

TAX MAP: 35

GRID: 35-22

ZONING DISTRICT: PEC

ADC MAP: 4934-F10

SUBDIVISION FILE NUMBER: SDP-17-006

FILE NUMBER: ECP-12-014

RECORD PLAT: 21234-2123

OWNER OCCUPIED: N

YEAR BUILT: 1968

HISTORIC DISTRICT: N

STAT AREA: 5-05

FLOOD PLAIN: N

MARYLAND DEPARTMENT OF THE ENVIRONMENT

**AIR AND RADIATION ADMINISTRATION
APPLICATION FOR A PERMIT TO CONSTRUCT**

DOCKET #16-23

COMPANY: WR Grace & Company

LOCATION: 7500 Grace Drive, Columbia, MD 21044

APPLICATION: Installation of a new research-scale pilot plant including small, R&D-scale reactors, chillers, separators, feeders, and samplers with an exhaust gas stream, cleaned by an electric, flameless thermal oxidizer.

<u>ITEM</u>	<u>DESCRIPTION</u>
1	Notice of Application and Opportunity to Request an Informational Meeting
2	Environmental Justice (EJ) Information - EJ Fact Sheet and MDE Score and Screening Report
3	Permit to Construct Application Forms – Forms 5, 5EP, 5T, 6, simplified process flow diagram, list of key equipment, site plan, emissions calculations, TAP compliance demonstration, safety data sheet, and vendor information.
4	Zoning

**DEPARTMENT OF THE ENVIRONMENT
AIR AND RADIATION ADMINISTRATION**

**NOTICE OF APPLICATION AND
OPPORTUNITY TO REQUEST AN INFORMATIONAL MEETING**

The Maryland Department of the Environment, Air and Radiation Administration (ARA) received a permit-to-construct application from W. R. Grace & Company on September 21, 2023 for the installation of a new research-scale pilot plant including small, R&D-scale reactors, chillers, separators, feeders, and samplers with an exhaust gas stream, cleaned by an electric, flameless thermal oxidizer. The proposed pilot plant line will be located at 7500 Grace Drive, Columbia, MD 21044.

In accordance with HB 1200/Ch. 588 of 2022, the applicant provided an environmental justice (EJ) Score for the census tract in which the project is located using the MDE EJ Screening Tool. The EJ Score, expressed as a statewide percentile, was shown to be 29% which the Department has verified. This score considers three demographic indicators, minority population above 50%, poverty rate above 25% and limited English proficiency above 15%, to identify underserved communities. Multiple environmental health indicators are used to identify overburdened communities.

Copies of the application, the MDE EJ Screening Tool Report (which includes the score), and other supporting documents are available for public inspection on the Department's website at <https://mde.maryland.gov/programs/Permits/AirManagementPermits/Pages/index.aspx> (click on Docket Number 16-23). Any applicant-provided information regarding a description of the environmental and socioeconomic indicators contributing to that EJ score can also be found at the listed website. Such information has not yet been reviewed by the Department. A review of the submitted information will be conducted when the Department undertakes its technical review of all documents included in the application.

Pursuant to the Environment Article, Section 1-603, Annotated Code of Maryland, the Department will hold an informational meeting to discuss the application and the permit review process if the Department receives a written request for a meeting within 10 working days from the date of the second publication of this notice. A requested informational meeting will be held virtually using teleconference or internet-based conferencing technology unless a specific request for an in-person informational meeting is received. All requests for an informational meeting should be directed to the attention of Ms. Shannon Heafey, Air Quality Permits Program by email to shannon.heafey@maryland.gov or by mail to the Air and Radiation Administration, 1800 Washington Boulevard, Baltimore, Maryland 21230.

Further information may be obtained by calling Ms. Shannon Heafey at 410-537-4433.

Christopher R. Hoagland, Director
Air and Radiation Administration

EXHIBIT 2



24'H x 32'L x 12'W

EXHIBIT 3



PUL-23-064
HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive

■ Ellicott City, Maryland 21043

■ 410-313-2350

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

September 21, 2023

Daniel Resca
Project Manager
W.R. Grace
7500 Grace Drive
Columbia, MD 21044

Susan Nash
Regulatory and Compliance Engineer Sr.
Air and Radiation Administration
Air Quality Permits Program
Maryland Department of the Environment
Suite 720
1800 Washington Boulevard
Baltimore, MD 21230

RE: MDE Air Permit to Construct, and Zoning Compliance Certificate for, Research-scale Pilot Plant in an existing building and lab, Building 30 Lab 120 at 7500 Grace Drive in Columbia, Maryland, Tax Map 35, Grid 22, Parcel 145, Lot PAR A (the "Property")

To Whom It May Concern:

The Property referenced above is located in a PEC (Planned Employment Center) zoning district, per the Howard County Zoning Regulations ("HCZR").

This office understands that the Property's owner will be installing a new research-scale pilot plant in an existing lab within an existing building (Building 30, Lab 120) at the Property. The purpose of this facility is to develop the process and catalysts associated with Grace's new technology for the chemical recycling of plastics. This new pilot plant will be used for Research and Development purposes only and will not be used as a commercial production plant. The proposed Installation will be part of an existing previously approved research lab facility and will not require any additional zoning review or approval. We have determined that the proposed installation will not necessitate the submission and approval of a new Conditional Use application. Further, a review of our records confirms that there are no zoning violations at the Property.

The Howard County Zoning Regulations are viewable at https://library.municode.com/md/howard_county/codes/zoning.

If you have any questions, please contact me at 410-313-4415 or srolls@howardcountymd.gov.

Sincerely,

Steve Rolls

Steve Rolls, Planning Support Technician II
Division of Public Service
and Zoning Administration

(PUL-23-064)

PUL-23-064



Howard County Maryland
Department of Planning and Zoning
3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350
www.howardcountymd.gov

DPZ Office Use Only:	
App. No.	_____
Date Filed	_____

Permitted Use Confirmation Application

This application is used to request a letter from the Department of Planning and Zoning which confirms that a use is permitted by the Howard County Zoning Regulations at a specific location. Please provide the following information and submit to 3430 Courthouse Drive Ellicott City, MD 21043-4350.
Applications are typically processed within 5 business days.

Applicant Information

Applicant's Name (please print): Matt Meixell
Address: 7500 Grace Drive
City: Columbia State: MD Zip: 21044
Phone (W) 410.531.8300 (H) 667.240.4340 Email Address matt.meixell@grace.com

(Please see attached)

please email when done
↓

Property Information

Property Address: 7500 Grace Drive
Tax Map: _____ Grid: _____ Parcel: _____ Lot: _____

Business Information

Business Name: W. R. Grace
Existing Business Type (ex. Retail, office, etc.): Office and Research & Development
Proposed Business Type: N/A
Proposed Business: Sq. ft.: 461,030 Number of employees: 550 Number of Students: 0

Please return this application to:

Department of Planning & Zoning | 3430 Courthouse Drive | Ellicott City, MD 21043-4350

Zoning District: _____ Use Category: _____
FDP# _____ SDP# _____
Comments: _____
Reviewed by: _____
PUL- _____





Talent | Technology | Trust™

*Please address both
in letter.*

Matt Meixell

Site Facilities Manager

T +1 410.531.8300

M +1 667.240.4340

Matt.meixell@grace.com

W. R. Grace & Co.-Conn.

7500 Grace Drive

Columbia, Maryland 21044

September 6, 2023

Daniel Resca
Project Manager
W.R. Grace
7500 Grace Drive
Columbia, MD 21044

Susan Nash
Regulatory and Compliance Engineer Sr.
Air and Radiation Administration
Air Quality Permits Program
Maryland Department of the Environment
Suite 720
1800 Washington Boulevard
Baltimore, MD 21230

RE: MDE Air Permit to Construct, and Zoning Compliance Certification for, Research-scale Pilot Plant in an existing building and lab, Building 30 Lab 120 at 7500 Grace Drive in Columbia, Maryland (the "Property")

Dear Mr. Resca and Ms. Nash:

The Property referenced above is currently zoned PEC (planned Employment Center) District under Howard County Zoning Regulations.

This office understands that the Property's owner will be installing a new research-scale pilot plant in an existing building and lab, Building 30 Lab 120, at its Columbia campus. The purpose of this facility is to develop the process and catalysts associated with Grace's new technology for the chemical recycling of plastics. This new pilot plant will be used for R&D purposes only and will not be used as a commercial production plant. The Proposed Installation will be part of an existing previous approved Research Lab facility and will not require any additional zoning review or approvals. We have determined that the proposed addition will not necessitate the submission and approval of a new Conditional Use application. Further, a review of our records confirms that there are no zoning violations at the Property.

If you have any questions, please contact me at email address.