

# Exhibit # 16



**DPS** | Montgomery County  
Department of Permitting Services



2425 Reedie Dr 7<sup>th</sup> Floor  
Wheaton, MD 20902  
Phone: 311 in Montgomery County or (240)777-0311  
<https://www.montgomerycountymd.gov/dps/>

TO: Jeffrey Ferrel, Vice President Business Operations  
Terra Innovations

FROM: Heidi Benham *HB*  
Well and Septic Manager

DATE: 9/1/2023

SUBJECT: Dickerson Development – Martinsburg Rd  
Conditional Use Application

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This memo shall serve as a summary of the status of private onsite sewage disposal systems and potential for future improvements for the subject project. As discussed on 8/24/23, the proposed development is located in a known area of a high water table based on previous perc test data. Obtaining approval for a conventional septic system may be unlikely. If soils testing yields unfavorable results, there may be opportunities to utilize various options for non-conventional septic systems such as a holding tank(s) or system that utilizes an innovative/alternative design. The use of these types of systems may ultimately be determined by the Maryland Department of the Environment.

The use and design of a conventional or non-conventional septic system will also be dependent on the number of proposed buildings, proposed uses, and proposed operations details such as number of onsite employees.

Please contact me at [Heidi.benham@montgomerycountymd.gov](mailto:Heidi.benham@montgomerycountymd.gov) if you have any questions.

**From:** [Harris, Robert R.](#)  
**To:** [Beall, Mark](#)  
**Cc:** [Jeffrey Ferrel](#); [Kyle Soltesz](#); [Butler, Patrick](#); [Kronenberg, Robert](#); [Penn, Joshua](#)  
**Subject:** Terra Innovations – Conditional Use Application for Dickerson Data Center (OZA No. CU 24 – 13)  
**Date:** Thursday, April 25, 2024 3:21:12 PM

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**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Mark, I think we have “checked another box” for you, this one on SWM. See my email at the bottom here, sent yesterday to Mark Etheridge (actually sent by my assistant), and his response today. I believe this clears us to have SWM reviewed at site plan, not now. We are arranging payment for the FCP Plan and Soltesz is providing the outstanding info on a couple of points Thanks for your continued work on this project.

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**Robert R. Harris**, Attorney

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**From:** Etheridge, Mark <[Mark.Etheridge@montgomerycountymd.gov](mailto:Mark.Etheridge@montgomerycountymd.gov)>  
**Sent:** Thursday, April 25, 2024 2:30 PM  
**To:** Gilbert, Janine K. <[jkgilbert@lerchearly.com](mailto:jkgilbert@lerchearly.com)>  
**Cc:** Kyle Soltesz <[KyleSoltesz@solteszco.com](mailto:KyleSoltesz@solteszco.com)>; Jeffrey Ferrel <[jeff@terraininnovations.com](mailto:jeff@terraininnovations.com)>  
**Subject:** RE: On Behalf of Robert Harris: Terra Innovations – Conditional Use Application for Dickerson Data Center (OZA No. CU 24 – 13)

Hi Janine –

Thanks for the email. Yes, I’m familiar with the stormwater management conceptual requirements in Chapter 19 of Montgomery County Code, and I am also somewhat familiar with the Dickerson project. I did speak to Kyle Soltesz recently about the project.

The Maryland Department of the Environment (MDE) has mandated a three-stage review process for development projects in Maryland. Per the MDE requirements, as reflected in Montgomery County Code, a Stormwater Management Concept approval is required prior to the Planning Board taking action on a Preliminary Plan application, and a Site Development Plan approval is required prior to Board action on a Site Plan application. A Site Development Plan is a formal revision of the Stormwater Management Concept, which is also a conceptual type of review. These two conceptual stages of review can be combined into a single review if the project in question is not going through a two stage Preliminary Plan/Site Plan process. These are conceptual reviews, and do not result in

issuance of any construction permits. The third stage of the three-stage process is submission and approval of a Final Stormwater Management design plan. This final stage results in issuance of construction permits.

I do not believe there is any provision in the code that requires a stormwater management conceptual approval prior to approval of a Conditional Use application.

DPS will review the conceptual reviews for the Dickerson project as required by MDE and by Montgomery County code. After the Conditional Use application is approved, if the project is going directly to Site Plan without a separate Preliminary Plan application, then the engineer will need to submit a Combination Concept/Site Development Plan application to DPS for review, and this must be approved by DPS prior to the project going before the Board for Site Plan approval.

Mark C. Etheridge  
Manager

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**From:** Gilbert, Janine K. <[jkgilbert@lercheearly.com](mailto:jkgilbert@lercheearly.com)>

**Sent:** Wednesday, April 24, 2024 4:12 PM

**To:** Etheridge, Mark <[Mark.Etheridge@montgomerycountymd.gov](mailto:Mark.Etheridge@montgomerycountymd.gov)>

**Cc:** Kyle Soltesz <[KyleSoltesz@solteszco.com](mailto:KyleSoltesz@solteszco.com)>; Jeffrey Ferrel <[jeff@terraininnovations.com](mailto:jeff@terraininnovations.com)>

**Subject:** On Behalf of Robert Harris: Terra Innovations – Conditional Use Application for Dickerson Data Center (OZA No. CU 24 – 13)

**[EXTERNAL EMAIL]**

Mark, I believe Kyle Soltesz spoke with you yesterday about this project. I am following up in order to ensure that we have a workable process for approval of the Stormwater Management Concept Plan for the site.

By way of background, I believe you are aware that the overall site (the location of the former Dickerson Power Plant), totals approximately 758 acres. The portion zoned Heavy Industrial, (approximately 290 acres) is where the data center and related facilities will be constructed. Given the unique nature of this application, including the probable number of buildings and other facilities to be constructed over a period of years, we agreed with Park and Planning Staff some months ago that we would process the Conditional Use application as a two phase application. First, we would seek general Conditional Use approval from the Zoning Hearing Examiner's office for the use itself. If approved, we then would undertake the extensive

engineering and architectural work necessary to plan specific buildings and facilities on the property. We agreed that the second phase would be subject to Site Plan approval by the Montgomery County Planning Board and have included this in the list of proposed Conditions for the Conditional Use. In other words, no development could proceed until the Site Plan is approved.

Pursuant to Section 19-23(a) a Stormwater Concept Plan must be reviewed before a preliminary plan of subdivision can be approved, and, under Section 19-23(b) a site development stormwater plan has to be approved before Site Plan approval. In this case, we do not have a pending preliminary plan and will proceed with Site Plan at a later stage. We also are not at a point in the process where we know how many buildings will be constructed, where they will be located or the extent of the stormwater management that will be necessary. Therefore, we submitted with the application a Stormwater Management Narrative and a typical stormwater management concept exhibit to provide an overall vision of our intentions. (These are Exhibits 12 and 13 to the Conditional Use application and are attached to this email). We then plan to seek full stormwater approval as part of the Site Plan.

Would it be possible for you to confirm for us that you will review the Stormwater Concept Plan at the time of Site Plan approval so that we can proceed with the initial phase of the approval now? Again, we have included in the application and will reiterate to the Zoning Hearing Examiner that the entire approval will be subject to your approval of the Stormwater Management Concept Plan at the second phase of review.

Please let me know if this works so that we can keep the approval process moving. Thank you very much.

Bob

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**on behalf of Robert R. Harris, Attorney**

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