

Mayor and Council
21st Special Session and Work Session
August 8, 2017
Agenda

*"A diverse, business-friendly, and sustainable community with clean, safe and strong neighborhoods."
"Providing the most efficient and highest-quality services as the municipal location of choice for all
customers."*

"Without a sense of caring, there can be no sense of community."

Anthony J. D'Angelo

4:00 PM SPECIAL SESSION

1. Approval of a Resolution: Acceptance of Offer of Quitclaim of Parcel from the Herald Mail Company
2. Approval of a Resolution: Acceptance of Offer of Quitclaim of Parcel from Antietam Paper Building, LLC

4:00 PM WORK SESSION

1. Land Management Code Amendments - Automobile Repair in I-MU Zoning District and Abandonment of Simplified Plats to Subdivide Existing Townhouse Units - *Stephen Bockmiller, Zoning Administrator*

- 4:30 PM** 2. Update on Excessive Use of City Services Program and Rental Licensing Program - *Kathleen Maher, Director of Planning and Code Administration; Paul Fulk, Inspections Manager; Chief Victor Brito; Officer Gerry Kendle*

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Approval of a Resolution: Acceptance of Offer of Quitclaim of Parcel from the Herald Mail Company

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Quitclaim_-_Herald_Mail.pdf

Description

Quitclaim - Herald Mail

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: August 8, 2017

TOPIC: **Approval of a Resolution: Accept Offer of Quitclaim of Parcel From
The Herald Mail Company**

Charter Amendment	_____
Code Amendment	_____
Ordinance	_____
Resolution	<u> X </u>
Other	_____

MOTION: I hereby move for Mayor and Council approval of a resolution to accept the offer of a quitclaim parcel from the Herald Mail Company for the purposes of confirming and extending the area previously quitclaimed and otherwise conveyed to the City.

DATE OF INTRODUCTION: N/A

DATE OF PASSAGE: August 8, 2017

EFFECTIVE DATE: August 8, 2017

CITY OF HAGERSTOWN, MARYLAND

RESOLUTION TO ACCEPT OFFER OF QUITCLAIM OF
PARCEL FROM THE HERALD MAIL COMPANY TO
THE CITY OF HAGERSTOWN

RECITALS

The City of Hagerstown is a municipal corporation existing under and by virtue of the laws of the State of Maryland.

WHEREAS, consistent with the Master Plan for the Arts and Entertainment District, the City of Hagerstown has reconstructed a walking trail known as the Cultural Trail within its corporate limits;

WHEREAS, by deed dated April 12, 2016 and recorded among the Land Records of Washington County, Maryland at Liber 5207, folio 0198, The Herald Mail Company did quitclaim certain lands to the City for the purpose of constructing the Cultural Trail;

WHEREAS, The Herald Mail Company desires to execute the attached Quitclaim deed for the purposes of confirming and extending the area previously quitclaimed and otherwise conveyed to the City;

WHEREAS, the Mayor and City Council has carefully considered the facts as presented by staff and the recommendation for acceptance of said parcel; and

WHEREAS, the Mayor and City Council, as the duly constituted legislative body of the City of Hagerstown, has determined that it is in the best interest of the citizenry in general to accept the donation, as indicated on the attached deed.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council do hereby accept the offer of donation made by The Herald Mail Company of the parcel of land, together with any improvements thereon belonging or in anywise appertaining, situate along and/or near the Cultural Trail, as indicated on the attached deed;

BE IT FURTHER RESOLVED, that the Mayor, City Clerk and Staff are authorized to take such further actions as may be necessary to formalize this acceptance; and

BE IT FURTHER RESOLVED, by the Mayor and Council for Hagerstown, Maryland, that this Resolution shall become effective immediately upon its passage.

WITNESS AND ATTEST
AS TO CORPORATE SEAL
MARYLAND

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN,

Donna K. Spickler, City Clerk

By: _____
Robert E. Bruchey, II,
Mayor

Date of Introduction: August 8, 2017
Date of Passage: August 8, 2017
Effective Date: August 8, 2017

PREPARED BY:
Salvatore & Morton, LLC
City Attorneys

QUITCLAIM DEED

THIS QUITCLAIM DEED, is made this _____ day of August 2017, by **THE HERALD MAIL COMPANY**, a Maryland corporation, hereinafter referred to as "Grantor", for and in favor of **THE CITY OF HAGERSTOWN**, a Maryland municipal corporation, hereinafter referred to as "Grantee".

WHEREAS, Grantor is the owner of certain real property in Washington County, Maryland described by a deed recorded at Liber 0704 folio 0026 among the Land Records of Washington County, Maryland ("Grantor's Property"); and

WHEREAS, Grantor did grant, convey, release, quitclaim and surrender unto Grantee a portion of Grantor's Property as more particularly described in a Quit Claim Deed dated April 12, 2016 and recorded among the Land Records of Washington County, Maryland at Liber 5207, folio 0198; and

WHEREAS, Grantor desires to execute this Quitclaim Deed for the purposes of confirming and extending the area quitclaimed and otherwise conveyed to Grantee as more particularly set forth herein; and

WITNESSETH

NOW THEREFORE, Grantor, for no monetary consideration (\$0.00), but for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does by these presents release and forever quitclaim to Grantee, all the right, title, interest, estate, claims, and demands, both at law and in equity of Grantor, in and to all that lot or parcel of land situate, lying and being in Washington County, Maryland and more particularly described as the "Quit Claim Area" containing +/- 7.0 sf as more particularly shown on the drawing entitled "Lands to be Quit Claimed by Antietam Paper Building, LLC and The Herald Mail Company, Inc. to The City of Hagerstown" prepared by Frederick Seibert & Associates, Inc., dated July 18, 2017 and attached hereto and incorporated herein as Exhibit A.

TOGETHER with the rights, way, alleys, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

AND the above described property is hereby conveyed subject to and together with all conditions, restrictions, easements and rights of way of record applicable thereto.

AND this conveyance is made on the express consideration that the property conveyed shall be used as and remain a public walking trail, public park or used for passive recreation purposes, to be enjoyed by the public generally.

SAVING and excepting therefrom an Easement for the benefit of the Grantor, its successors and assigns for vehicular ingress and egress to its existing loading docks, and

pedestrian ingress and egress to the stairway and building entrance.

AND this Deed has been prepared without the benefit of a title examination. All parties affirm their understanding that only a title examination will disclose the status of title, including but not limited to, the quality and quantity of title; the possibility of other persons having an interest in the property conveyed by this deed, as well as any other matters disclosed by an examination of title. Notwithstanding this disclosure and having been fully informed of the cost of accomplishing an examination of title, the parties have elected not to have an examination of this title and release Divelbiss & Wilkinson, the scrivener of this deed, from all and any loss, claim, damages and/or liability resulting from a condition of title which might have been disclosed by a title examination of the property conveyed by this deed. Divelbiss & Wilkinson has not issued any opinion on the tax consequences of this transfer or any other rights or consequences to the parties to this deed.

[SIGNATURES & NOTARY ON FOLLOWING PAGE]

IN WITNESS WHEREOF, witness the hand and seal of the Grantor.

WITNESS:

GRANTOR

THE HERALD MAIL COMPANY
a Maryland corporation

By: _____ (SEAL)
Andrew Bruns, President

STATE OF MARYLAND, COUNTY OF WASHINGTON, to wit:

I HEREBY CERTIFY, that on this _____ day of August, 2017, before me, the subscriber, a Notary Public, in and for the State and County aforesaid, personally appeared Andrew Bruns, President of The Herald Mail Company, a Maryland corporation, who being duly authorized, voluntarily executed the foregoing instrument for the purposes therein contained, by signing it, in my presence, and acknowledged that this transaction is made for the no consideration.

WITNESS my hand and Official Notarial Seal.

Notary Public

My Commission Expires:

GRANTORS' AFFIDAVIT

I, Andrew Bruns, President of The Herald Mail Company, a Maryland corporation, upon my own personal knowledge, do hereby swear and affirm under the penalties of perjury that the foregoing transfer is for no monetary consideration and that the consideration stated in the foregoing Deed is true and correct.

WITNESS:

GRANTOR

THE HERALD MAIL COMPANY
a Maryland corporation

By: _____ (SEAL)
Andrew Bruns, President

ATTORNEY'S CERTIFICATION

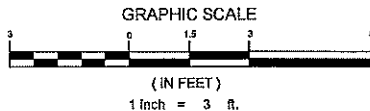
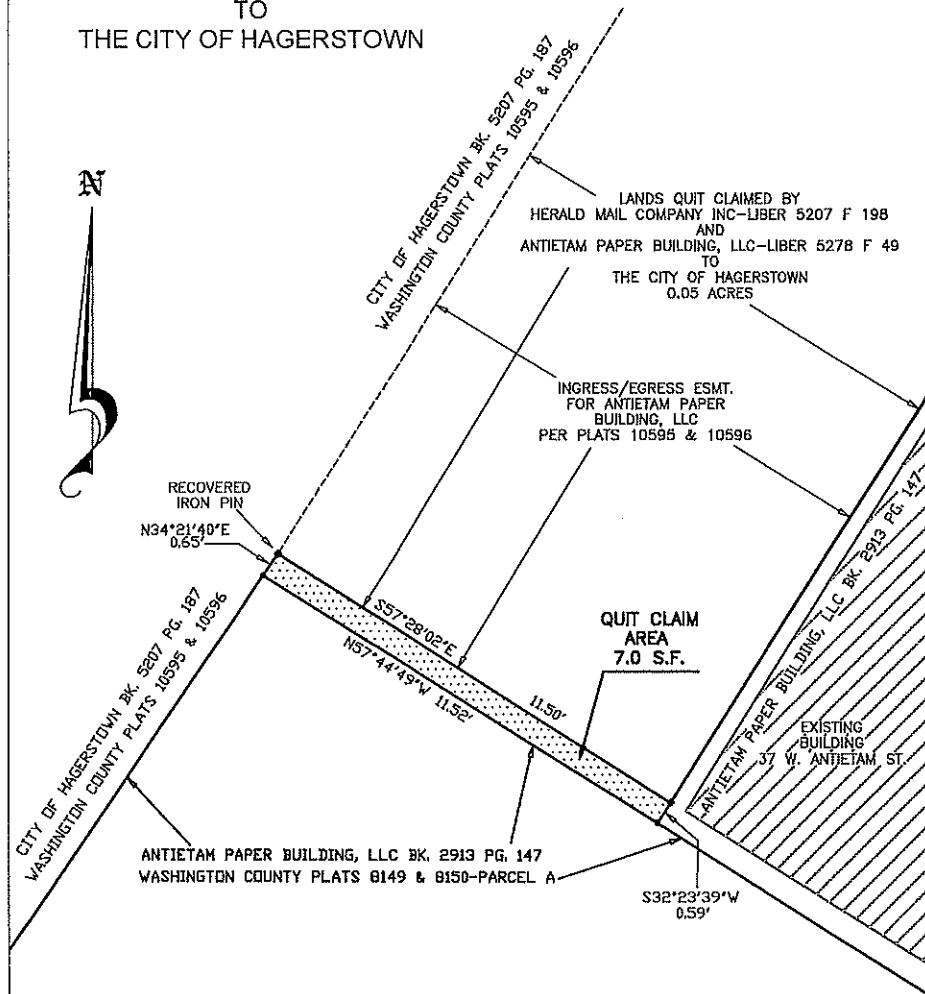
I hereby certify that the foregoing instrument was prepared by, or under the supervision of, the undersigned, an attorney duly admitted to practice before the Court of Appeals of the State of Maryland.

Jason M. Divelbiss, Esq.

AFTER RECORDING RETURN TO :

City of Hagerstown
1 East Franklin Street
Hagerstown, Maryland 21740
Attn: City Clerk

LANDS TO BE QUIT CLAIMED
BY
ANTIETAM PAPER BUILDING, LLC
AND
THE HERALD MAIL COMPANY, INC.
TO
THE CITY OF HAGERSTOWN



SURVEYOR'S CERTIFICATION
I hereby certify to the best of my professional knowledge and belief that the plan shown hereon is correct; that it is a portion of the lands inadvertently omitted via the quit claim deeds recorded at Liber 5207 Folio 198 and Liber 5278 Folio 49 among the Land Records of Washington County, Md.; that I personally prepared this document and that the survey work reflected hereon is in compliance with the regulations set forth in COMAR 09.13.06.12 in effect at the time the survey was performed. I also certify that I am a duly licensed professional surveyor under the Laws of the State of Maryland. License No. 10950, Expires 6-29-18.

Professional Surveyor _____ Date _____

TAX MAP: 312-4-2054	DISTRICT: 3
DRAWING NUMBER 1 OF 1	
DRAWN BY: RAS	DATE: 7-18-17
CHECKED BY:	DATE:
SCALE: 1"=3'	

**FREDERICK
SEIBERT &
ASSOCIATES, INC.**



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(410) 791-3150 (717) 416-7418 www.fseibert.com (717) 597-1097 (717) 751-4111

JOB NUMBER: 7151

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Approval of a Resolution: Acceptance of Offer of Quitclaim of Parcel from Antietam Paper Building, LLC

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Quitclaim_-_Antietam_Paper_Building__LLC.pdf

Description

Quitclaim - Antietam Paper Building, LLC

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: August 8, 2017

TOPIC: **Approval of a Resolution: Accept Offer of Quitclaim of Parcel From Antietam Paper Building, LLC**

Charter Amendment	_____
Code Amendment	_____
Ordinance	_____
Resolution	<u> X </u>
Other	_____

MOTION: I hereby move for Mayor and Council approval of a resolution to accept the offer of a quitclaim parcel from Antietam Paper Building, LLC for the purposes of confirming and extending the area previously quitclaimed and otherwise conveyed to the City.

DATE OF INTRODUCTION: N/A

DATE OF PASSAGE: August 8, 2017

EFFECTIVE DATE: August 8, 2017

CITY OF HAGERSTOWN, MARYLAND

RESOLUTION TO ACCEPT OFFER OF QUITCLAIM OF
PARCEL FROM ANTIETAM PAPER BUILDING, LLC TO
THE CITY OF HAGERSTOWN

RECITALS

The City of Hagerstown is a municipal corporation existing under and by virtue of the laws of the State of Maryland.

WHEREAS, consistent with the Master Plan for the Arts and Entertainment District, the City of Hagerstown has reconstructed a walking trail known as the Cultural Trail within its corporate limits;

WHEREAS, by deed dated June 16, 2016 and recorded among the Land Records of Washington County, Maryland at Liber 5278, folio 0049, Antietam Paper Building, LLC did quitclaim certain lands to the City for the purpose of constructing the Cultural Trail;

WHEREAS, The Herald Mail Company desires to execute the attached Quitclaim deed for the purposes of confirming and extending the area previously quitclaimed and otherwise conveyed to the City;

WHEREAS, the Mayor and City Council has carefully considered the facts as presented by staff and the recommendation for acceptance of said parcel; and

WHEREAS, the Mayor and City Council, as the duly constituted legislative body of the City of Hagerstown, has determined that it is in the best interest of the citizenry in general to accept the donation, as indicated on the attached deed.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council do hereby accept the offer of donation made by Antietam Paper Building, LLC of the parcel of land, together with any improvements thereon belonging or in anywise appertaining, situate along and/or near the Cultural Trail, as indicated on the attached deed;

BE IT FURTHER RESOLVED, that the Mayor, City Clerk and Staff are authorized to take such further actions as may be necessary to formalize this acceptance; and

BE IT FURTHER RESOLVED, by the Mayor and Council for Hagerstown, Maryland, that this Resolution shall become effective immediately upon its passage.

WITNESS AND ATTEST
AS TO CORPORATE SEAL
MARYLAND

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN,

Donna K. Spickler, City Clerk

By: _____
Robert E. Bruchey, II,
Mayor

Date of Introduction: August 8, 2017
Date of Passage: August 8, 2017
Effective Date: August 8, 2017

PREPARED BY:
Salvatore & Morton, LLC
City Attorneys

QUITCLAIM DEED

THIS QUITCLAIM DEED, is made this _____ day of August 2017, by **ANTIETAM PAPER BUILDING, LLC**, a Maryland limited liability company, hereinafter referred to as "Grantor", for and in favor of **THE CITY OF HAGERSTOWN**, a Maryland municipal corporation, hereinafter referred to as "Grantee".

WHEREAS, Grantor is the owner of certain real property in Washington County, Maryland described by a deed recorded at Liber 2913, folio 0147 among the Land Records of Washington County, Maryland ("Grantor's Property"); and

WHEREAS, Grantor did grant, convey, release, quitclaim and surrender unto Grantee a portion of Grantor's Property as more particularly described in a Quit Claim Deed dated June 16, 2016 and recorded among the Land Records of Washington County, Maryland at Liber 5278, folio 0049; and

WHEREAS, Grantor desires to execute this Quitclaim Deed for the purposes of confirming and extending the area quitclaimed and otherwise conveyed to Grantee.

WITNESSETH

NOW THEREFORE, Grantor, for no monetary consideration (\$0.00), but for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does by these presents release and forever quitclaim to Grantee, all the right, title, interest, estate, claims, and demands, both at law and in equity of Grantor, in and to all that lot or parcel of land situate, lying and being in Washington County, Maryland and more particularly described as the "Quit Claim Area" containing +/- 7.0 sf as more particularly shown on the drawing entitled "Lands to be Quit Claimed by Antietam Paper Building, LLC and The Herald Mail Company, Inc. to The City of Hagerstown" prepared by Frederick Seibert & Associates, Inc., dated July 18, 2017 and attached hereto and incorporated herein as Exhibit A.

TOGETHER with the rights, way, alleys, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

AND the above described property is hereby conveyed subject to and together with all conditions, restrictions, easements and rights of way of record applicable thereto.

AND this conveyance is made on the express consideration that the property conveyed shall be used as and remain a public walking trail, public park or used for passive recreation purposes, to be enjoyed by the public generally.

SAVING and excepting therefrom an Easement for the benefit of the Grantor, its successors and assigns for vehicular ingress and egress to its existing loading docks, and pedestrian ingress and egress to the stairway and building entrance.

AND this Deed has been prepared without the benefit of a title examination. All parties affirm their understanding that only a title examination will disclose the status of title, including but not limited to, the quality and quantity of title; the possibility of other persons having an interest in the property conveyed by this deed, as well as any other matters disclosed by an examination of title. Notwithstanding this disclosure and having been fully informed of the cost of accomplishing an examination of title, the parties have elected not to have an examination of this title and release Divelbiss & Wilkinson, the scrivener of this deed, from all and any loss, claim, damages and/or liability resulting from a condition of title which might have been disclosed by a title examination of the property conveyed by this deed. Divelbiss & Wilkinson has not issued any opinion on the tax consequences of this transfer or any other rights or consequences to the parties to this deed.

[SIGNATURES & NOTARY ON FOLLOWING PAGE]

IN WITNESS WHEREOF, witness the hand and seal of the Grantor.

WITNESS:

GRANTOR

ANTIETAM PAPER BUILDING, LLC
a Maryland limited liability company

By: _____ (SEAL)
Mike Deming, Authorized Member

STATE OF MARYLAND, COUNTY OF WASHINGTON, to wit:

I HEREBY CERTIFY, that on this ____ day of August, 2017, before me, the subscriber, a Notary Public, in and for the State and County aforesaid, personally appeared Mike Deming, Authorized Member of Antietam Paper Building, LLC, a Maryland limited liability company, who being duly authorized, executed the foregoing instrument for the purposes therein contained, by signing it, in my presence, and acknowledged that this transaction is made for the no consideration.

WITNESS my hand and Official Notarial Seal.

Notary Public

My Commission Expires:

GRANTORS' AFFIDAVIT

I, the undersigned, on behalf of Antietam Paper Building, LLC, a Maryland limited liability company, upon my own personal knowledge, do hereby swear and affirm under the penalties of perjury that the foregoing transfer is for no monetary consideration and that the consideration stated in the foregoing Deed is true and correct.

WITNESS:

GRANTOR

ANTIETAM PAPER BUILDING, LLC
a Maryland limited liability company

By: _____ (SEAL)
Mike Deming, Authorized Person

ATTORNEY'S CERTIFICATION

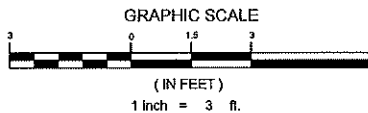
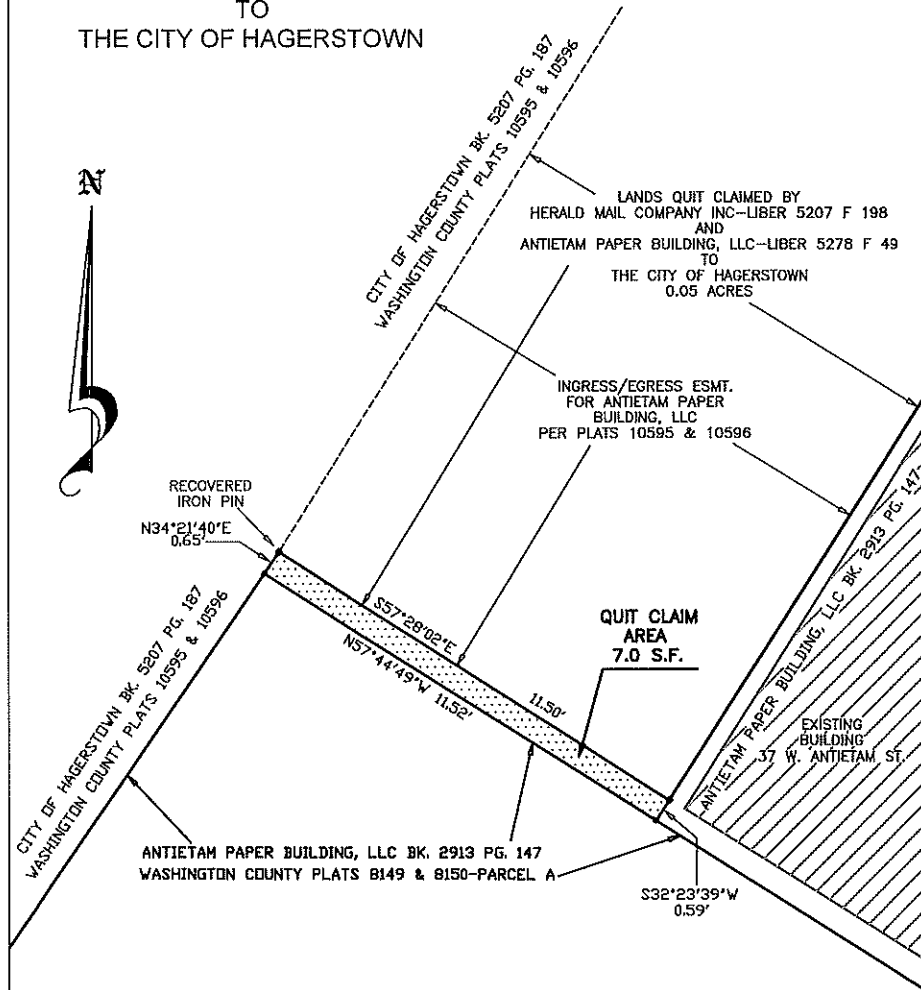
I hereby certify that the foregoing instrument was prepared by, or under the supervision of, the undersigned, an attorney duly admitted to practice before the Court of Appeals of the State of Maryland.

Jason M. Divelbiss, Esq.

AFTER RECORDING RETURN TO :

City of Hagerstown
1 East Franklin Street
Hagerstown, Maryland 21740
Attn: City Clerk

LANDS TO BE QUIT CLAIMED
BY
ANTIETAM PAPER BUILDING, LLC
AND
THE HERALD MAIL COMPANY, INC.
TO
THE CITY OF HAGERSTOWN



SURVEYOR'S CERTIFICATION
I hereby certify to the best of my professional knowledge and belief that the plan shown hereon is correct; that it is a portion of the lands inadvertently omitted via the quit claim deeds recorded at Liber 5207 Folio 198 and Liber 5278 Folio 49 among the Land Records of Washington County, Md.; that I personally prepared this document and that the survey work reflected hereon is in compliance with the regulations set forth in COMAR 09.13.06.12 in effect at the time the survey was performed. I also certify that I am a duly licensed professional surveyor under the Laws of the State of Maryland. License No. 10950, Expires 6-29-18.

Professional Surveyor

Date

TAX MAP: 312-4-2054	DISTRICT: 3
DRAWING NUMBER 1 OF 1	
DRAWN BY: RAS	DATE: 7-18-17
CHECKED BY:	DATE:
SCALE: 1"=3'	

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(171) 591-007

(171) 791-8111

JOB NUMBER: 7151

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Land Management Code Amendments - Automobile Repair in I-MU Zoning District and
Abandonment of Simplified Plats to Subdivide Existing Townhouse Units - *Stephen Bockmiller,*
Zoning Administrator

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

PH_Text_Amend.pdf

Description

Text Amendments:
Automobile Repair as a
Permitted Use in the I-MU
Zoning District; and
Abandonment of Simplified
Plats to Subdivide Existing
Townhouse Units



CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

Memorandum

TO: Valerie Means, City Administrator

FROM:  Stephen R. Bockmiller, AICP
Development Review Planner/Zoning Administrator

SUBJECT: ZT-2017-01 – Automobile Repair as a permitted use in the I-MU Zoning District
ZT-2017-02 – Abandonment of Simplified Plats to subdivide existing townhouse units
Mayor and Council Public Hearing for Proposed Text Amendments

DATE: August 3, 2017

The Planning Commission conducted public hearings for two proposed amendments to the Land Management Code, and forwards both to the Mayor and Council with recommendation that they be adopted and incorporated into the Code. A mayor and council public hearing has been scheduled for August 29.

Text amendment 2017-01 was submitted by a citizen. Citizen initiated text amendments are very rare. In this case, the applicant requests that the Mayor and Council amend Article 4 (Zoning) Section Z (Land Use Chart) to include automobile repair as a permitted use, under certain circumstances in the I-MU (Industrial Mixed Use) Zoning District. There are two I-MU Districts in the City – the raw land Harrison properties on Howell Road, and a series of properties bisected by Kuhn Avenue, on the south side of Wilson Boulevard. If the proposal is adopted as written, the amendment would affect only the properties in the latter location. Permitted land uses of the Harrison tracts would be unaffected by this change. This was requested when the applicant purchased property on Wilson Boulevard with intent to use it for automobile repair, only to find it not to be a permitted use. There is one nonconforming automobile repair facility in this area, and what appears to be a recently commenced illegal use. Both businesses have the potential to become permitted uses by this proposal.

Text amendment 2017-02 was brought forth by staff to patch a “hole” in Article 5 (Subdivision and Land Development Ordinance). The purpose of this amendment is to address redevelopment of properties that contained townhouses and were subdivided by simplified plat in the past to place each unit on their own lots for the purpose of resale but the building was subsequently removed. Nonconforming townhouses in the R-MOD District, as well as townhouses on irregular and undersized lots were created, but are not usable in their current configuration. This results in very small lots that are “not for development purposes” (per the language of the ordinance) and cannot be built on unless re-recorded as a final plat (which would be subject to current bulk requirements). This proposal allows the previous simplified plat to be “undone”, and the land returned to its previous configuration prior to the recordation of the simplified plat. This has the potential to affect a handful of properties around the city, should they be redeveloped. The circumstances which brought forward the need for this amendment are quite complex. Staff is preparing a powerpoint presentation for the meeting to explain these situations in a more visual manner.

Attached are copies of the proposed amendment language.

If you have any questions, please contact me at your convenience.

Copy: K. Maher, Director, PCAD




CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Hagerstown Planning Commission Members

FROM:  Stephen R. Bockmiller, AICP
Development Review Planner/Zoning Administrator

SUBJECT: Citizen-Initiated Text Amendment Application To Permit Automobile Repair
In The I-MU Zoning District

DATE: May 25, 2017

The City has received a zoning text amendment application requesting that Article 4, Section Z (Land Use Chart) of the Land Management Code be amended to permit automobile repair in the I-MU District.

This came about after staff was approached for a zoning certificate for the property at 327 East Wilson Boulevard for a car repair business. Since it is not a permitted use in the I-MU Zoning District, we were unable to provide the certificate. The applicant had recently purchased the property with the intent of using it for automobile repair. Automobile repair is permitted in the CG, CR, IR, IG districts by right and by special exception in the CL District and the Conversion overlay district.

The proposed language would add a new line to the use chart as follows:

Use	I-MU
Auto(motive) Repair & Maintenance (8111) in buildings constructed prior to 2010 with outdoor storage and service areas screened with opaque fencing and landscaping in accordance with Article 5	P

This language was developed after discussion with staff. Staff does not view this use as being conducive to the planned nature of I-MU Districts – which is essentially POM (office park) zoning with some limited retail, restaurant warehousing and indoor light manufacturing. None of the uses in the category of “Automobile and Transportation-Related Use” in the use chart are permitted in the I-MU District.

However, there are currently two I-MU Districts in the city: A large portion of the unimproved Harrison Tract off of Edgewood Drive, and a 7.25 acre area on the south side of Wilson Boulevard that is made up of several properties, most of which are already developed.

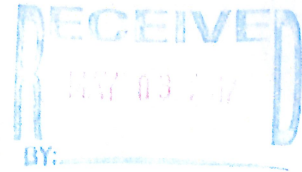
The proposed language with this amendment would permit the use within the Wilson Boulevard district. Since there are no buildings constructed prior to 2010 on the larger, “raw land” I-MU Zoning District on Edgewood Drive, this text amendment will not impact the current array of use options for the development of that tract.

This will be scheduled for public hearing at the end of June. If you have any questions, please contact me at your convenience.

Attachment: Application for Text Amendment

CITY OF HAGERSTOWN, MARYLAND
PLANNING DEPARTMENT

APPLICATION FOR A TEXT AMENDMENT
TO THE LAND MANAGEMENT CODE



DATE: April 20, 2017

Case No.: ZT- 2017-01

Applicant: RQCC, LLC

Mailing Address: PO Box 1092
Hagerstown, MD 21741-1092

Telephone: (b)301-733-1771 (c) 301-573-0370 Fax: 301-733-4711

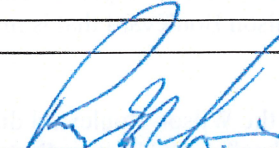
E-mail: rqccinc@gmail.com

I/We, the undersigned, do hereby make application and petition the City Hagerstown Mayor and City Council to amend the text of the City of Hagerstown Land Management Code in accordance with the provisions of Article 4.

It is requested that Section Z, Article 4 of the Land Management Code be amended by

Adding to the available permitted land uses under the I-MU: Industrial Mixed Use Category
Auto repair & maintenance (8111) in buildings constructed prior to 2010 with outdoor vehicle
storage and service areas screened with opaque fencing and landscaping in accordance with
Article 5.

The specific objective of the requested text amendment is to permit automobile repair as a
permitted use in the I-MU District, which is similar to other uses permitted in that zone.
Automobile repair is a permitted use in the CG, CR, IR and IG districts, and the I-MU district is a
hybrid of uses found in these districts".

Signature: 

Signature: 

Note: If the request is made by a corporation, the names and address of all officers in the corporation must be provided. The applicant or applicant's representative is expected to attend all meetings to answer questions concerning the petition. The absence of the applicant is sufficient grounds to warrant a deferral of action by the Mayor and City Council.




CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Hagerstown Planning Commission Members

FROM:  Stephen R. Bockmiller, AICP
Development Review Planner/Zoning Administrator

DATE: May 25, 2017

SUBJECT: Odd Issue and Possible Text Amendment – Abandonment of Simplified Plats

BACKGROUND:

Recently, a 7,500 square foot tract of land on Pope Avenue (RMOD Zoning) was donated to Habitat For Humanity. The tract had a nonconforming three-unit block of townhouses on two 25-foot wide lots. A few years ago, it was subdivided by simplified plat to place each house on its own lot. The existing interior property line was vacated and no longer exists. The resulting lots were very narrow, and drawn irregularly to conform to irregular party walls between the units. A couple of years ago, the units burned and the building was demolished. Since townhouses are not permitted in the RMOD District, and the requirement for reconstruction was not implemented to keep the nonconformity viable, the nonconformity is lost. They now own three very narrow, irregular lots that cannot be built upon because simplified plats are “not for development purposes” and any property in the past that was recorded by simplified plat that came in for development was required to process a final plat. I have attached illustrations to explain this progression.

ISSUE:

Habitat desires to construct two semi-detached dwellings on the property (2 units total in one building) along the previously abandoned interior lot line. We have analyzed the Land Management Code in depth in an attempt to help Habitat, but within the current Code, there is no way to do this. This also raises the issue of what to do with such properties in the very rare occurrence that this happens. Another example of such a situation is the condemned block of narrow townhouses on East Franklin Street, which were subdivided in the past, but likely could not be reconstructed within the existing property lines. (Note: This example is in the RMED District which permits townhouses, so there is no “use” issue here, but lot width and area problems created by a simplified plat to subdivide existing conditions)

WHAT IS PERMITTED:

As currently exists, the Code would permit the property to be re-platted to create one a single family detached dwelling lot to be improved with a single family detached dwelling.

WHAT WILL ADDRESS THE PROPERTY OWNER'S DESIRE AND ADDRESS THIS IDENTIFIED ISSUE WITHIN THE LAND MANAGEMENT CODE?

The only way to address this issue and not create new issues within the ordinance is to create an exemption that allows a simplified plat to be “abandoned” and re-establish previously existing interior property lines that existed prior to the simplified plat. In this example, a new final plat would be processed that abandons the existing two interior property lines and reestablishes the previously existing interior lot line between two 25-foot wide lots.

With this condition recreated, they could then apply to the Board of Zoning Appeals for necessary setback variances to construct single family detached dwellings on each lot, or apply for variances to lot area and width requirements to construct semi-detached dwellings on each lot.

Admittedly this seems convoluted, but it addresses the unique condition of abandoned sub-standard and expired nonconforming use townhouse lots created by simplified plat without opening a “Pandora’s box” of issues. It will avoid creating regulations that allow developers to get around current requirements that otherwise only permit single-family detached dwellings from being constructed on undersized lots. The current regulations only permit singles to be built on undersized lots to avoid Constitutional “takings” claims. This approach allows the previously existing lots to be recreated through the subdivision process. It avoids the existing regulations that prohibit the Board of Zoning Appeals to approve lot area and width variances in order to increase permitted density. Only lines that existed when the simplified plat was created can be re-created.

THE PROPOSAL

Staff offers the following text that, if adopted, will address this issue. In Habitat’s example, if this is approved, they would then process a final plat to re-establish the two 25-foot wide lots of previous record, and then apply to the Board of Zoning Appeals for lot area, lot width and (if needed) setback variances. New text is in red.

Article 5: Subdivision and Land Development Ordinance
Section A: General Provisions
Subsection 3: Application and Interpretation
Item d: Adjustment to Recorded Plats

- (1) The combination or recombination of a portion of previously subdivided and recorded lots may be approved by the Zoning Administrator if the total number of lots is not increased, and the resultant lots are equal to or exceed the standards of this Article.

- (2) However where a tract, consisting of two or more parcels or lots of record is subdivided or resubdivided by simplified or minor plat for the purpose of placing on their own lots existing townhouse units in zoning districts that do not permit townhouse units and/or if the new resultant lots do not comply with current lot area and width requirements for townhouse development on individual lots in districts that permit townhouses, the owner may, when under common ownership, re-plat the property to abandon the townhouse lots and re-establish interior parcel or lot lines that existed at the time the simplified or minor plat was approved. When the tract is re-platted to abandon the interior townhouse lines and re-establish previously existing interior lot lines, the owner shall regain all rights thereto, as if the simplified or minor subdivision had never occurred. The townhouse structure shall be demolished prior to entering the re-platting process. Variances to bulk area requirements will not be required to abandon the simplified plat and re-establish those interior lot lines existed when the simplified plat was created. No increase in the number of lots above existing shall be permitted.

I am checking to see if there are any cross-reference notations that may need to be added to tie this new provision to relevant sections, and if so these will be forwarded to you prior to your meeting. But they will not be content-based. All new content is above.

WHY NOW?

This is an issue of importance to Habitat, and since we are processing a citizen-requested amendment (auto repair in the I-MU) at this time, we felt it prudent so we can move efficiently with advertisements and hearings at the same time. This amendment proposal is made by staff.

FOLLOW UP

This experience has drawn attention to the issue of whether new subdivisions (and condominium plats) should be created when dealing with nonconformities. Subdividing to permit permitted uses on substandard lots is one issue and not a problem. But when there is the potential for the expiration of a nonconformity that then creates lots that cannot be used for the purpose intended, it causes staff to ask whether subdividing a nonconforming use should be permitted at all. We will add this to the next annual package of amendments that we will bring to you for discussion.

If you have any questions, please let me know.

Attachment: Case Study – Pope Avenue

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Update on Excessive Use of City Services Program and Rental Licensing Program - *Kathleen Maher, Director of Planning and Code Administration; Paul Fulk, Inspections Manager; Chief Victor Brito; Officer Gerry Kendle*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name	Description
MCC_Memo_Update_on_Rental_Licensing_and_Excessive_Use_of_City_Services_7_27_17.pdf	Update on Excessive Use of City Services Program and Rental Licensing Program
HPD_Excessive_Use_of_City_Services.pdf	HPD Excessive Use of City Services



CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Kathleen A. Maher, Director of Planning & Code Administration
Paul Fulk, Inspections Manager
Vic Brito, Chief of Police
Gerry Kendle, HPD

DATE: July 27, 2017

SUBJECT: Update on Excessive Use of City Services Program and Rental Licensing Program

Planning and Code Administration staff will be present at the August 8th work session with HPD to provide the Mayor and City Council with an update on the Excessive Use of City Services Program and the Rental Licensing Program.

Hagerstown's Excessive Use of City Services Program

The City's Excessive Use of City Services Program became effective on April 18, 2014 with the intent to advance the safety and welfare of neighborhoods throughout Hagerstown by educating landlords on tenant screening and leases and by holding all property owners accountable when chronic nuisance situations occur at their properties. The goal is not to be punitive to property owners but to encourage actions that result in lower calls for service and prevent nuisance situations from occurring and perpetuating in our neighborhoods.

Hagerstown's program was modeled on a nationally recognized "Crime Free Program" and evidence was provided of its success by example of the Village of Mount Prospect in Chicago. Our program was established through amendments to Chapter 95, Excessive Use of Police Services, and Chapter 197, Rental Facilities. Prior to adoption, the Mayor and City Council deliberated on the merits and parameters of this program from November 2013 through March 2014.

Parameters of Excessive Use of City Services Program

The 2014 amendment process repealed Chapter 95, Excessive Use of Police Services, and replaced it with Chapter 95, Excessive Use of City Services, and amended Chapter 197, Rental Facilities. Chapter 95 applies to all properties throughout the city. Changes to Chapter 95

included the following:

- Established a definition for Chronic Nuisance Property;
- Amended the minimum number of police qualifying calls (domestic violence issues are exempt) from 10 to 3 (3 to any individual dwelling unit, but a rising number depending upon the size of the apartment complex or if it is a commercial property) which must be met within a 12 month period prior to becoming a chronic nuisance property;
- Establishes three as the minimum number of property maintenance standards (sanitation, weeds, and nuisance abatement) which must be met within a 12 month period prior to becoming a chronic nuisance property;
- Appeals will be heard by an Administrative Hearing Officer.

Changes to Chapter 197 included the following:

- Require all residential landlords or their property managers to obtain certification as a residential operator or designated agent;
- Residential operator or designated operator certification can be revoked for chronic nuisance properties if the property owner does not work with the Hagerstown Police Department to address the qualifying police calls and the training requirement;
- Following two qualifying calls for Police service, property owners/managers are required to attend a one-time, free training seminar on Crime Free Housing (voluntary for all others);
- Require use of a written lease which contains a Crime Free Housing provision;
- Appeals will be heard by an Administrative Hearing Officer.

Once a property has reached the minimum number of qualifying calls or qualifying property maintenance standards and has been placed on the Chronic Nuisance Properties list, any subsequent calls for service within the following 12 month period will result in fees being assessed to the owner of the property were the nuisance occurs. The first qualifying call after making the list would be \$100, the second would be \$250, and the third and subsequent qualifying calls would be \$500. If a residential landlord is in violation of Chapter 95 and refuses to work with the Hagerstown Police Department to address the Police issues at the property and the mandatory training requirement, the property owner's crime free housing operator's certification may be revoked for that property. If this occurs, the property owner's rental facility license for Chapter 197 for the property will be revoked. Operating a rental facility without a license is in violation of Chapter 197 which is a municipal infraction and subject to fines not exceeding \$1,000.

Hagerstown's Rental Licensing Program

Chapter 197 of the City Code outlines the licensing and inspection requirements for the City's Rental Facilities Program. This code was adopted by the Mayor and City Council in 2003 for the purpose of protecting and promoting the public health, safety and welfare of the citizens of Hagerstown, establishing rights and obligations of the landlords and tenants in the rental of dwelling units, and encouraging the landlords and tenants to maintain and improve the quality of rental housing within the community. An additional purpose is promoting and assuring the

safety, health and habitability in the housing conditions in rental facilities in the City, preventing deterioration of rental facilities in the City, supporting property values, and encouraging responsible management and use of rental facilities through licensing and inspection. Periodic adjustments have been made to the program over the years, most recently in late 2016.

Licensing and Inspections Required by the Code: Chapter 197 requires any structure containing one or more dwelling units to be licensed with the City and subject to periodic inspections for compliance with the City's Property Maintenance Code. Rooming houses are considered rental facilities under this code. Exceptions are provided to owner-occupied structures containing no more than one rental unit ("owner plus one") and to rental facilities owned and operated by the Hagerstown Housing Authority (HHA). The exception for HHA is because it was determined their inspection standards were comparable to the City's standards.

Excluding from Licensing by the Code: Chapter 197 excludes traditional hotels, motels, bed-and-breakfasts, nursing homes and hospitals from the definition of "rental facility." The first three are "rented" on a very transient basis by travelers passing through the community, and any hotel or motel operating under the flag of a national chain would be subject to the operational and maintenance standards to remain under that flag. The last two are subject to oversight by the State of Maryland.

Excluded from Licensing by Interpretation: Planning and Code Administration staff have excluded homeless shelters due to their hotel-like transiency and assumption of oversight by the State of Maryland or other authority, residential treatment facilities due to on-site care and oversight by others, ARC of Washington County houses due to in-home nursing care and other oversight, and assisted living facilities due to nursing care and other oversight. In November 2016, PCAD staff provide an update on which housing provider properties were licensed in the program and which were exempt and an assessment of the inspection checklists shared by those providers exempt from the City licensing program.

Staff Recommendations in November 2016 to Amend the Rental Licensing Program

In light of this research and the prior concerns raised by the City Council regarding the safety of housing provided to our most vulnerable citizens, staff recommended the following revisions to Chapter 197, Rental Facilities, for the Mayor and City Council's consideration. Further research on these recommendations was tabled with the change in administration and advent of the PICCR process.

1. 197-2, Definitions: Modify the definition of 'Rental Facility' to include 'or units or beds provided to clients of supportive housing providers, whether for consideration or not' at the end of A.
2. 197-2, Definitions: Modify the definition of 'Rental Unit' to include 'dormitory, homeless shelter, and residential treatment facility.'

3. 197-2, Definitions: Add a definition for 'supportive housing provider' – A non-profit or for-profit entity that owns or operates housing with or without in-house staff or treatment for elderly, disabled, and/or homeless clients. This does not include nursing homes or hospitals.
4. 197-4, Application, license fee: Add 'and dormitory facility' to (2).
5. 197-4, Application, license fee: Add a new (3) for 'homeless shelter and residential treatment facility.'
6. 197-4, Application, license fee: Using the rooming house fee system in (2) as a model, the fee system for 'homeless shelter and residential treatment facility' in new (3) could be \$100 per facility, plus \$10 per bed.
7. 197-6, Inspections: Add 'dormitory, homeless shelter, and residential treatment facility' to (2).
8. 197-6, Inspections: Change the frequency of inspections for rooming house units, plus 'dormitory, homeless shelter, and residential treatment facility,' in (2) from 48 months to 24 months.

Additional Staff Recommendations

1. Due to recurring situation of non-payment of Rental Licensing fees by some landlords, suggest allowing liening of unpaid Rental Licensing fees as is allowed in the Vacant Structures Program.
2. Due to large number of units never inspected and fairly common occurrence of non-reporting of tenant turnovers by some landlords, suggest modifying the interior inspection schedule from an event schedule to a timing schedule.

Staff Presentation on Administration of the Two Programs

PCAD and HPD staff will provide detail on our experience administering these two programs at the meeting on August 8th.

- c: Blaine Mowen, Chief Code Official
Gary Lambert, Programs Manager
Emily McFarland, Program Administrative Specialist
Paul Kipe, HPD
Jon Kerns, Community Development Manager
Steve Lohr, Fire Chief



CITY OF HAGERSTOWN MARYLAND

DEPARTMENT OF POLICE
50 N. Burhans Blvd.

21740 - 4696

Non-Emergency 301-790-3700
Emergency 240-313-4345
Fax 301-733-5513

The data compiled for this presentation included the majority of public housing locations in the city of Hagerstown. Walnut Towers and C.W. Brooks were excluded from this report as they are senior housing facilities and the calls for service to such locations do not accurately represent the common issues facing citizens. The locations that were examined are Potomac Towers, Noland Village, Park Pl & Sumans Ave, Frederick Manor, and Gateway Crossing. It should be noted that Gateway Crossing covers a large area which also includes non-public housing units

Data was also analyzed from two non-public housing areas to provide a comparison that demonstrates high priority areas for police. The West End neighborhood and Locust Point were chosen because HPD has recently assigned new Community Resource Officers to those locations due to the high volume of quality of life related calls for service.

In this report, only calls for service affecting quality of life were examined; proactive policing related calls were excluded. All traffic related calls such as accidents, towed motor vehicle, and traffic stops were excluded. Other exclusions were assisting other agencies, sector/patrol checks, follow-ups, and check well-being calls. The category for nuisance calls includes animal complaints, code violations, disorderly conduct, disturbance, fireworks complaint, gang graffiti, harassment, intoxicated person, littering, loitering, noise complaint, and public nuisance. These calls were lumped into one category as they are not necessarily representative of a crime but still affect quality of life for residents.



A Nationally Accredited Law Enforcement Agency

2007 Calls for Service & Part 1 Incidents by Location								
	Potomac Towers	Noland Village	Park Pl & Sumans Ave	Frederick Manor	Gateway Crossing	West End	Locust Point	City-Wide
All Calls for Service	159	638	196	168	N/A	N/A	N/A	30,703
CDS Related Calls	7	5	4	4	N/A	N/A	N/A	551
Nuisance Calls	15	119	69	27	N/A	N/A	N/A	5,068
Violent/Weapons Related Calls	8	59	11	13	N/A	N/A	N/A	1,411
Property Crime Calls	37	128	16	19	N/A	N/A	N/A	4,781
Domestic Calls	7	80	14	23	N/A	N/A	N/A	2,043
Part 1 Crime Incidents								
Burglary	0	7	1	0	8	9	7	285
Robbery	0	4	3	0	0	4	2	104
Homicide	0	0	0	0	0	0	0	4
Rape	0	0	0	0	1	2	0	12
Aggravated Assault	1	6	1	2	5	3	6	114
Larceny-Theft	5	16	2	2	16	25	26	1,259
Motor Vehicle Theft	1	3	0	0	3	3	2	120
TOTAL Part 1 Incidents	7	36	7	4	33	46	43	1898

● There are no calls for service recorded for Gateway Crossing, West End, Locust Point due to a change in reporting districts.

● Of the 30,703 calls for service in the city, 1,161 or 3.8% were calls to public housing locations. The majority of these calls (230 or 19.8%) were nuisance related calls. Only 91 (7.8%) of the calls were for violent crime offenses and weapons related offenses.

● There were a total of 1,898 part 1 crimes reported in the city, 87 of those taking place in public housing areas which accounts for 4.6% of the city's overall part 1 crimes. Of those 87 part 1 crimes, only 23 of the incidents were violent crimes. In just the West End and Locust Point neighborhoods, there were 89 part 1 crimes reported, 17 of them being violent crimes.

2012 Calls for Service & Part 1 Incidents by Location								
	Potomac Towers	Noland Village	Park Pl & Sumans Ave	Frederick Manor	Gateway Crossing	West End	Locust Point	City-Wide
All Calls for Service	119	95	149	132	524	841	895	25,782
CDS Related Calls	1	0	3	3	6	14	11	520
Nuisance Calls	23	109	43	36	143	236	341	6,340
Violent/Weapons Related Calls	8	6	5	6	33	52	42	1,329
Property Crime Calls	40	40	16	25	92	172	123	4,781
Domestic Calls	6	54	13	18	55	68	71	1,658
Part 1 Crime Incidents								
Burglary	2	5	2	0	5	12	7	319
Robbery	0	0	0	0	3	2	0	76
Homicide	0	0	0	0	0	0	0	3
Rape	0	0	0	0	0	0	0	12
Aggravated Assault	1	3	1	0	5	8	8	125
Larceny-Theft	10	11	1	5	11	29	19	1,085
Motor Vehicle Theft	0	1	0	1	4	5	4	126
TOTAL Part 1 Incidents	13	20	4	6	28	56	38	1746

●Of the 25,782 calls for service in the city, 1,019 or 4% were calls to public housing locations. The majority of these calls (354 or 34.7%) were nuisance related calls. Only 58 (5.7%) of the calls were for violent crime offenses and weapons related offenses.

●1,736 or 6.7% of all of the calls in the city were to the West End and Locust Point neighborhoods.

●There were 28 calls for service for violent crime/weapons related offenses to the public housing locations which makes up 4.4% of all violent crime/weapons related offenses in the city. In the West End and Locust Point, there were 94 calls, making up 7.1% of all violent crime/weapons related offenses.

●There were a total of 1,746 part 1 crimes reported in the city, 71 of those taking place in public housing areas which accounts for 4.1% of the city's overall part 1 crimes. Of those 71 part 1 crimes, only 13 of the incidents were violent crimes. In just the West End and Locust Point neighborhoods, there were 94 part 1 crimes reported, 18 of them being violent crimes.

2016 Calls for Service & Part 1 Incidents by Location								
	Potomac Towers	Noland Village	Park Pl & Sumans Ave	Frederick Manor	Gateway Crossing	West End	Locust Point	City-Wide
All Calls for Service	139	95	150	173	498	975	1002	28,568
CDS Related Calls	6	0	4	13	12	45	43	892
Nuisance Calls	27	118	62	49	134	234	308	6,492
Violent/Weapons Related Calls	6	6	10	11	29	52	75	1,329
Property Crime Calls	31	47	21	17	103	153	156	5,084
Domestic Calls	5	36	7	14	29	48	47	1,248
Part 1 Crime Incidents								
Burglary	1	6	1	1	4	18	16	406
Robbery	0	1	1	0	1	2	5	106
Homicide	0	0	0	0	0	0	0	0
Rape	0	1	0	0	0	1	1	18
Aggravated Assault	1	3	0	0	5	5	12	123
Larceny-Theft	8	6	3	1	21	27	14	897
Motor Vehicle Theft	1	1	0	0	2	1	5	122
TOTAL Part 1 Incidents	11	18	5	2	33	54	53	1,672

●Of the 28,568 calls for service in the city, 1,055 or 3.7% were calls to public housing locations. The majority of these calls (390 or 37%) were nuisance related calls. Only 62 (5.9%) of the calls were for violent crime offenses and weapons related offenses.

●1,977 or 6.9% of all of the calls in the city were to the West End and Locust Point neighborhoods.

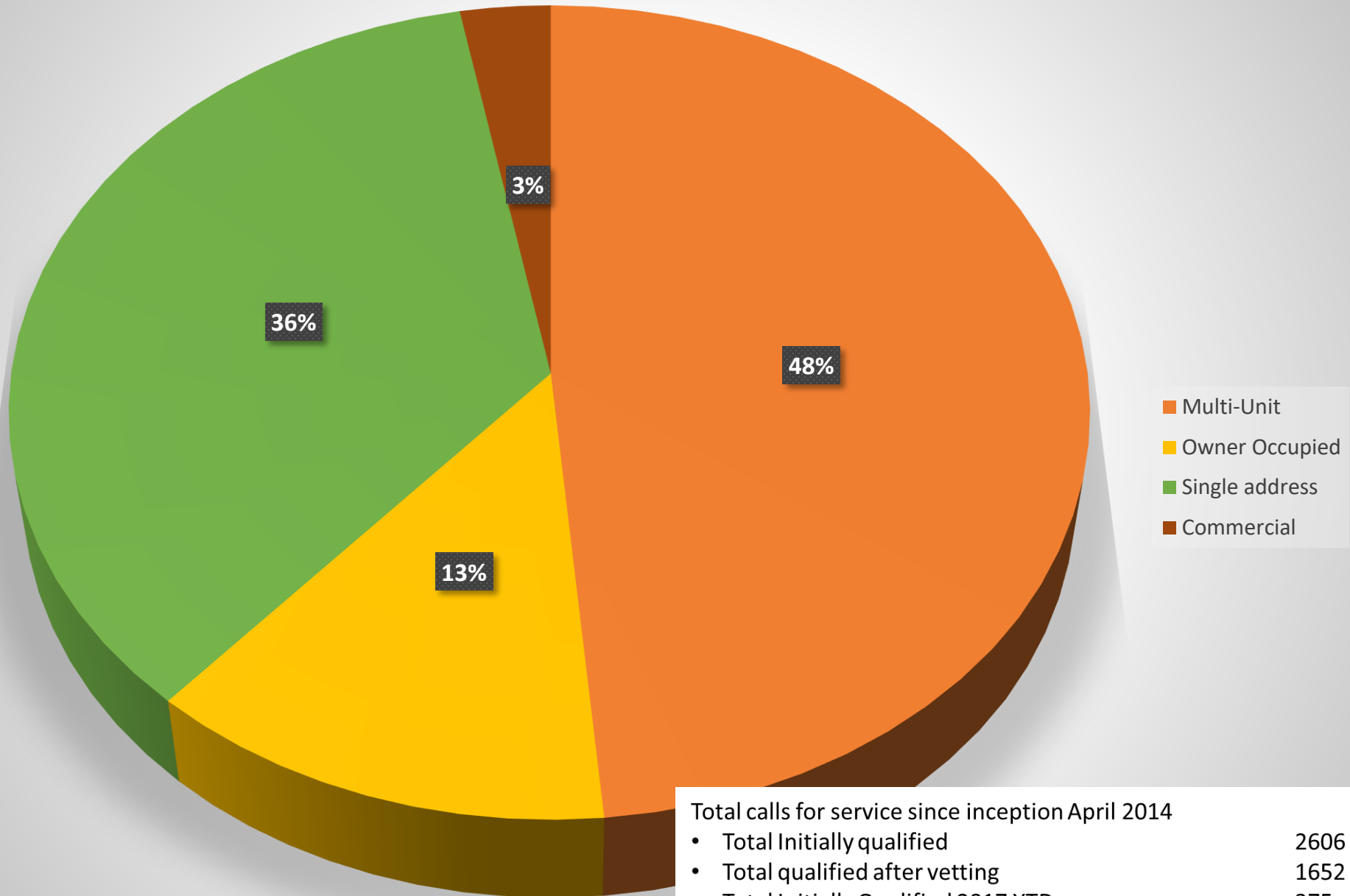
●There were 62 calls for service for violent crime/weapons related offenses to the public housing locations which makes up 4.7% of all violent crime/weapons related offenses in the city. In the West End and Locust Point, there were 127 calls, making up 9.6% of all violent crime/weapons related offenses.

●There were a total of 1,672 part 1 crimes reported in the city, 69 of those taking place in public housing areas which accounts for 4.1% of the city's overall part 1 crimes. Of those 69 part 1 crimes, only 13 of the incidents were violent crimes. In just the West End and Locust Point neighborhoods, there were 107 part 1 crimes reported. 26 of them being violent crimes.

Hagerstown Police Department

Excessive Use of City Services

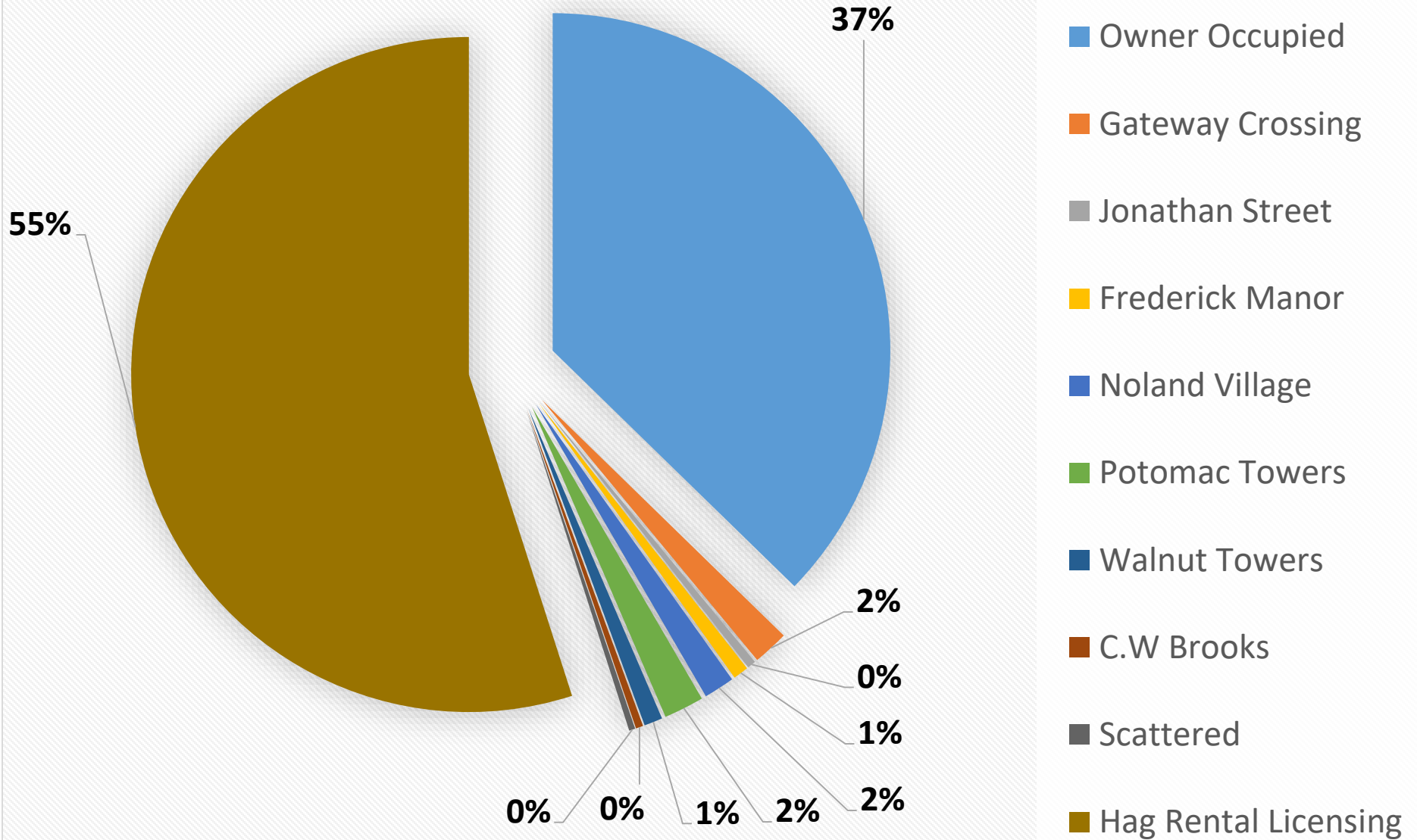
Qualifying Calls Breakdown April 2014 to Present



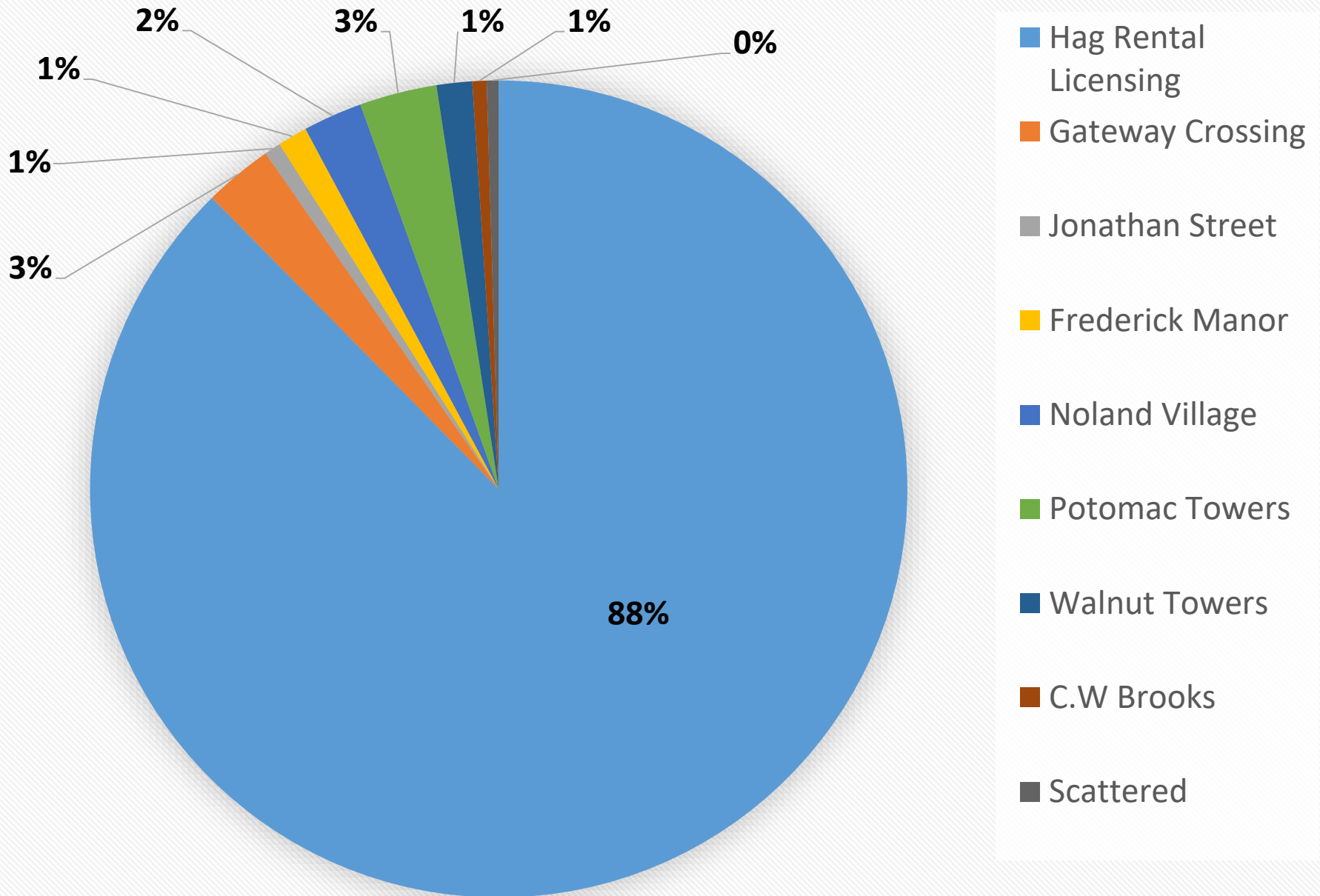
Total calls for service since inception April 2014

• Total Initially qualified	2606
• Total qualified after vetting	1652
• Total Initially Qualified 2017 YTD	375
• Total Qualified after vetting 2017 YTD	282

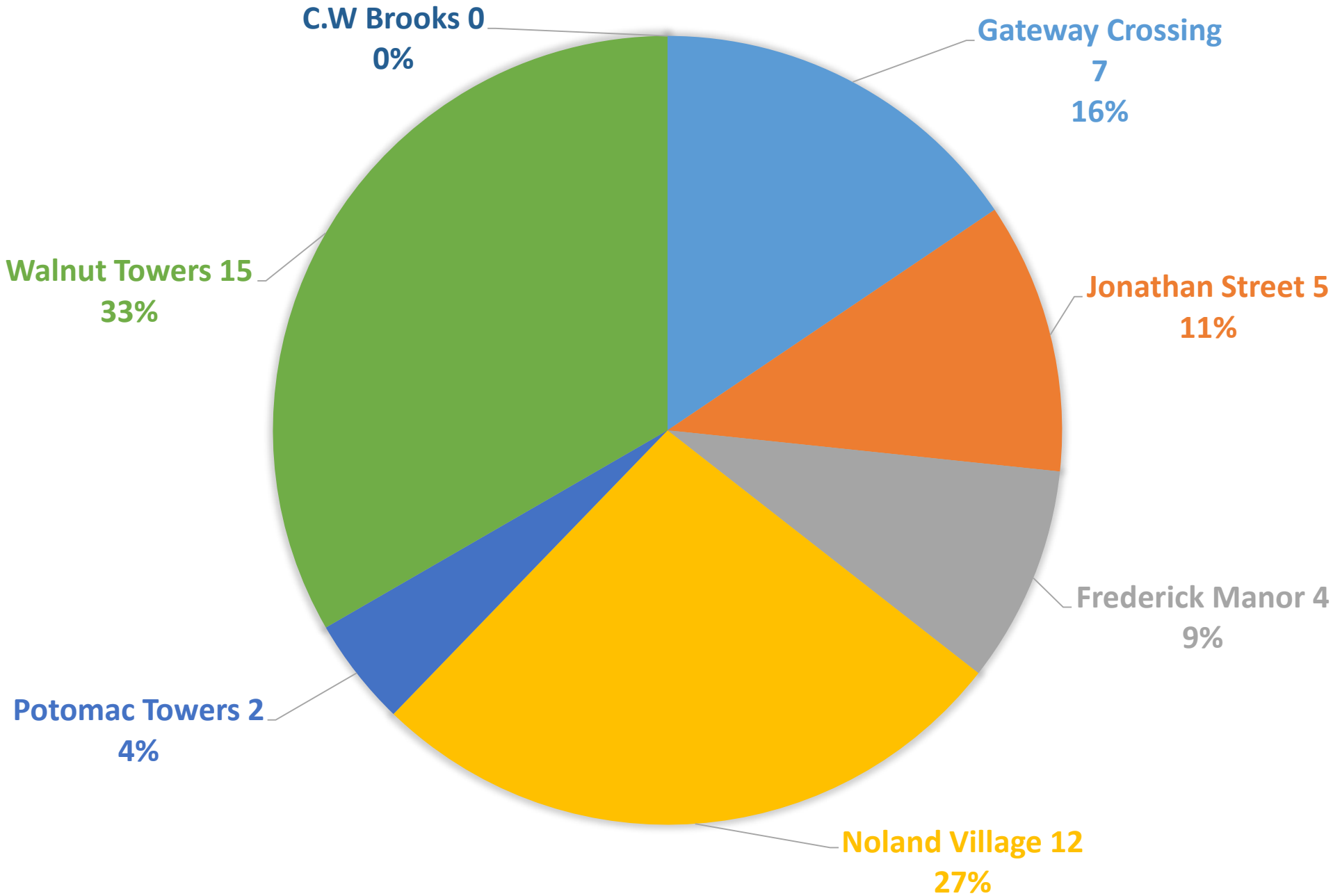
All Housing Units



All Rental Units in HHA and Rental Licensing Programs

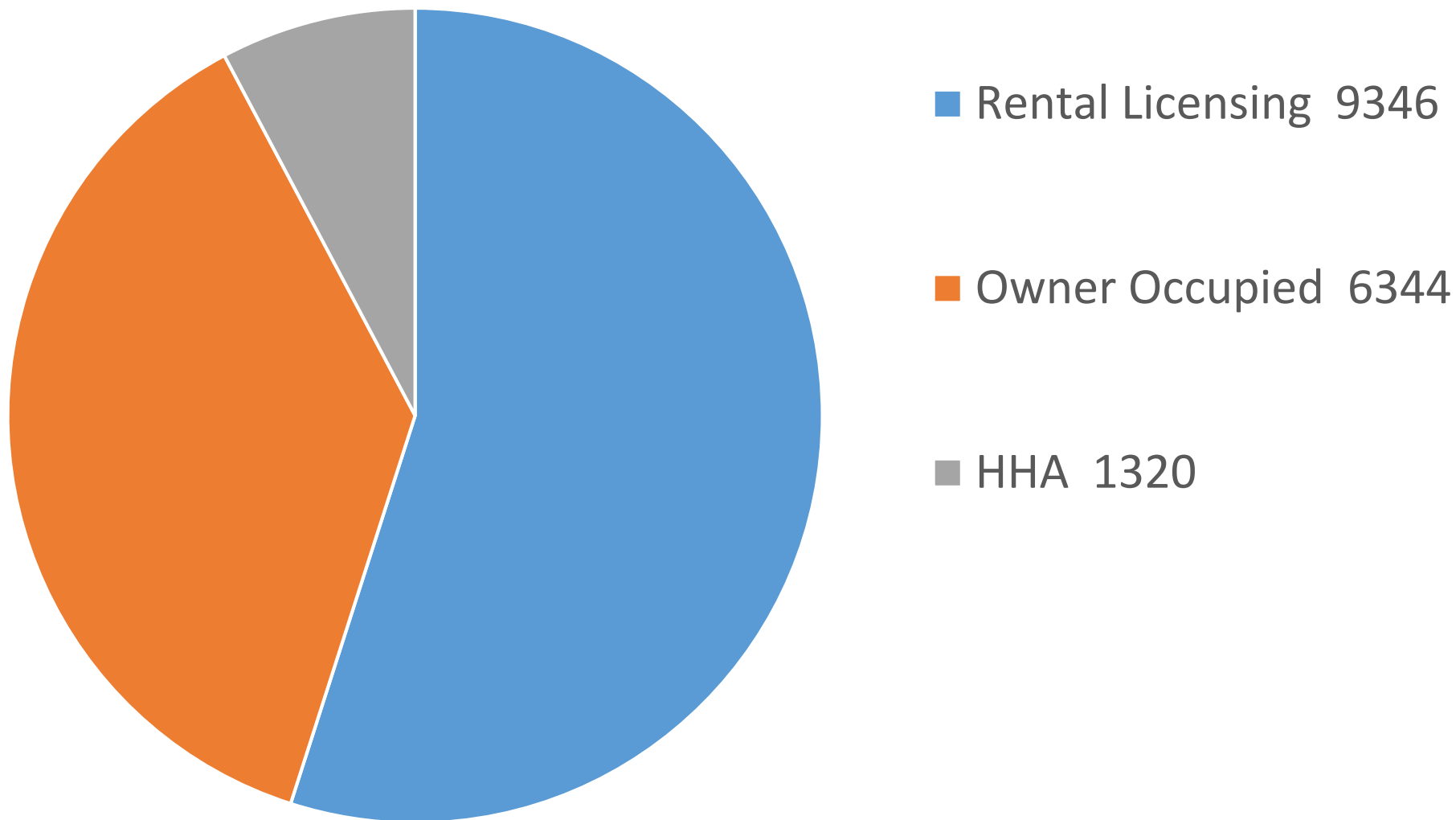


QUALIFIED CALLS TO HHA COMMUNITIES

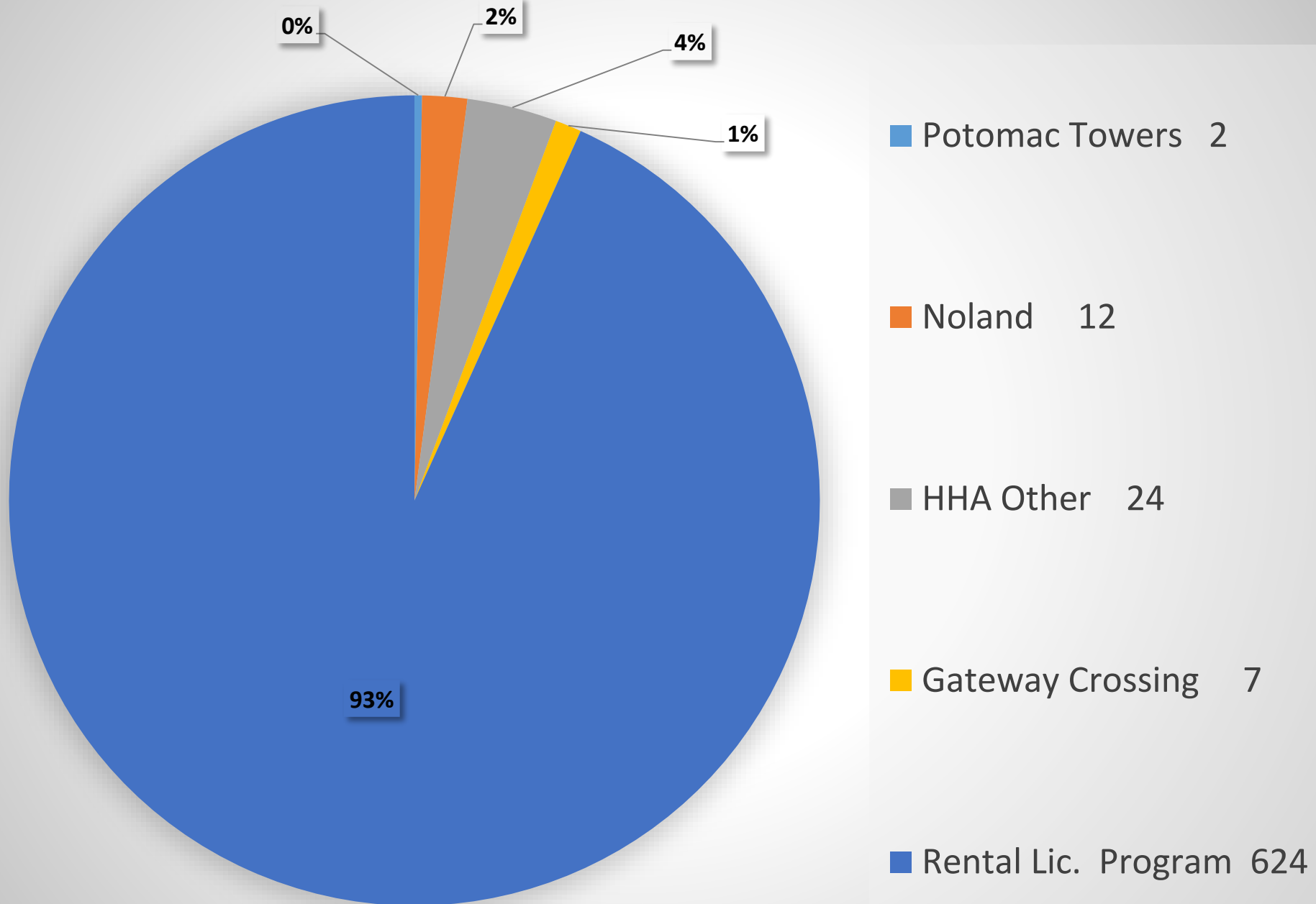


Total Units for Occupancy City of Hagerstown

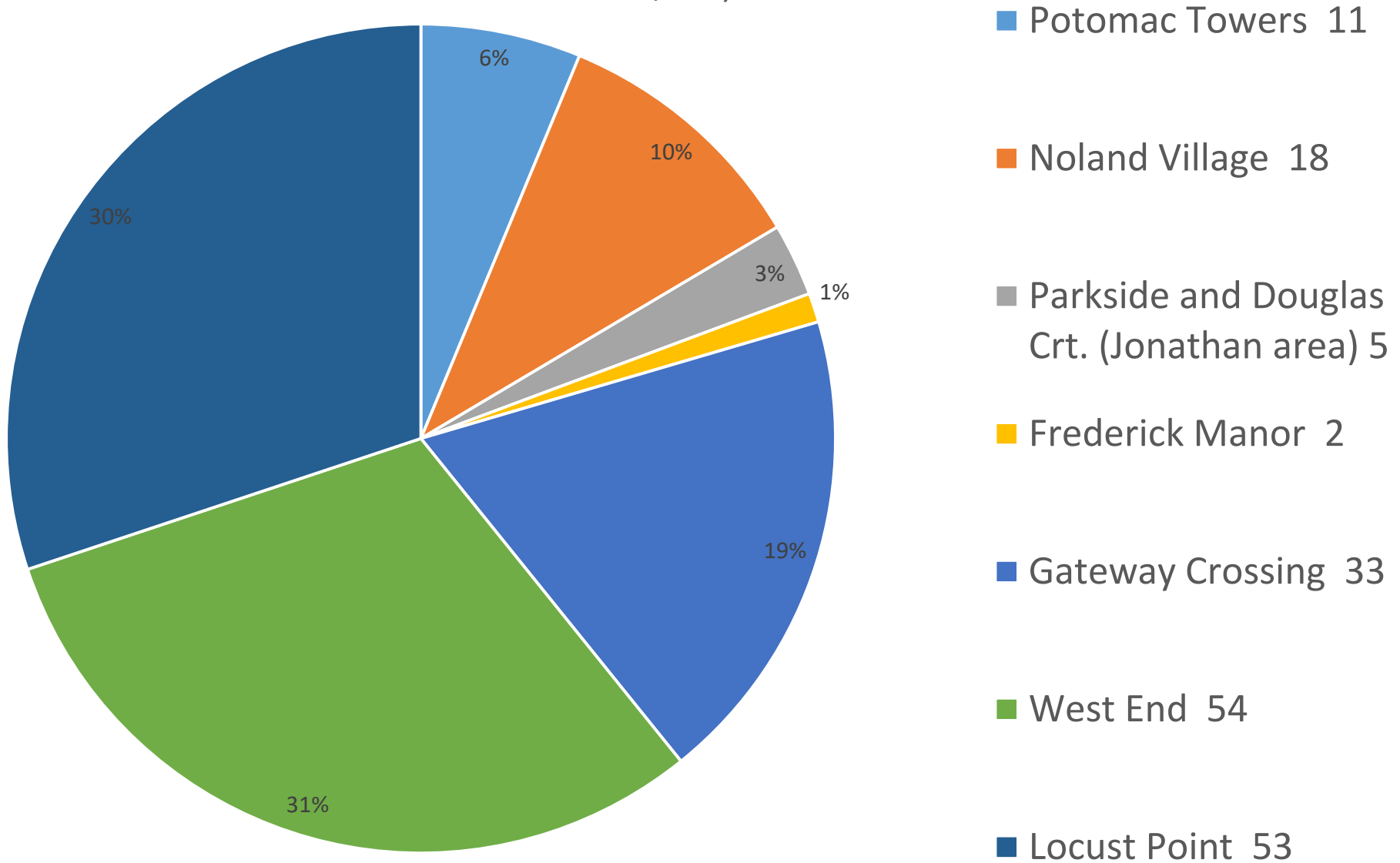
Total 17,010



Qualifying calls to Rental Properties 2016 Total 668



Part one Crime by Location 2016 Areas Surveyed 176 (Total Citywide = 1,672)



**PART 1 CRIMES BY LOCATION 2016, AREAS SURVEYED 176,
(TOTAL CITYWIDE 1,672)**

