MONTGOMERY COUNTY, MARYLAND

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
Stella B. Werner Council Office Building
Rockville, Maryland 20850
(240) 777-6660

NOTICE OF REPORT AND RECOMMENDATION TO THE COUNCIL AND RIGHT TO REQUEST ORAL ARGUMENT

TO: Parties to Proceedings on Applications for Local Map Amendments

DATE: October 11, 2016

SUBJECT: Notice of Report and Recommendation to the Council in LMA H-113; Right to Request Oral Argument; and Procedures Governing District Council Review

On October 11, 2016, the Hearing Examiner issued a Report and Recommendation to the County Council, sitting as the District Council for the Regional District, recommending **approval** of Local Map Amendment Application No. H-113. The Applicant, Investment Properties, Inc., requests rezoning from the existing IH 2.5, H 70 Heavy Industrial Zone to the IMF 2.5, H 70 - Moderate Industrial Floating Zone of Lot 3 (Parcel N775) and Lot 4 (Parcel N687), described in Plat No. 22432 of the Cotler Industrial Park Subdivision of Rockville. The property is located in the 4th Election District at 800 and 850 East Gude Drive in Rockville and consists of 11.21 acres of land (488,520 square feet).

A readable and printable copy of the full text of the Hearing Examiner's report is available at OZAH's website address: http://www.montgomerycountymd.gov/OZAH/reports.html. The report is also available for review at the Office of Zoning and Administrative Hearings (OZAH) between 9:00 am and 4:30 pm on days the County is open for business.

Any person receiving this notice who does not have access to the internet or to a printer may request a paper copy of the report by stating in writing that he or she lacks internet or printer access. Any interested person may also make a paper copy of the report, at a cost of ten cents per page, by visiting our office in the County Council Office Building, 100 Maryland Avenue, Suite 200, Rockville, Maryland 20850. For further information on obtaining a paper copy, please call the Office of Zoning and Administrative Hearings at 240-777-6660.

In order that you are informed about the right to request oral argument before the District Council, we call your attention to Section 59-7.2.1.D.3.c of the Zoning Ordinance, which pertains to oral argument. You may also wish to consult the County Council's Rules of Procedure.

Zoning Ordinance §59--7.2.1.D.3.c. provides:

> Any party of record or aggrieved party may, within 10 days after the Hearing Examiner issues a report and recommendation, file a written request with the District Council to present oral argument.
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> i. Any party who submits a request for oral argument must send a copy of the request to all parties of record.
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> ii. The request must concisely state the matters desired to be presented at the oral argument. The District Council may grant or deny the request. The District Council may, on its own motion, require oral argument on any aspect of the case. When oral argument is allowed, the District Council must:
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> (a) set the day and time for oral argument;
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> (b) limit oral argument to specific topics;
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> (c) set time limits for oral argument; and

(d) specify the order of presentations.

iii. Each oral argument must be limited to matters contained in the record compiled by the Hearing Examiner.

iv. After oral argument, the District Council must either decide the application or remand the application to the Hearing Examiner for clarification or taking additional evidence.

v. Any interested party may, within 5 days after a request for oral argument is filed with the District Council, file a written opposition to a request for oral argument or request to participate in oral argument if oral argument is allowed. The opposition must be concise and limited to matters raised by the party who requested oral argument. Any party who files an opposition or request to participate must send a copy to all parties of record.

No attempt should be made to discuss the merits of this case with any councilmember since *ex parte* communications are prohibited by law.

You will be notified by the District Council if your request for oral argument is granted and at what time and place it will occur. You should contact the Council office (240-777-7900) to determine the agenda date and time for Council action.

Final action to approve, deny, or remand an application is governed by the provisions of the Zoning Ordinance and the Maryland Land Use Article, Code Ann. § 21-101(a)(4)(i) (2012). The following elements are involved in the process:

1. The decision of the District Council must be rendered within sixty days of the hearing examiner's report unless the time is extended by the District Council.

2. The affirmative vote of five members of the District Council is normally required to adopt a resolution granting a reclassification; however, an affirmative vote of 6 members of the District Council is required to approve an application if:
   a. approval would be contrary to the recommendation of the municipality in which the property is located; or
   b. the Planning Board does not recommend approval of the application.

   If the required number of affirmative votes is not obtained, the application is denied.

3. All resolutions will be accompanied by an opinion of the District Council containing its conclusions and reasons. A copy of the resolution and opinion will be mailed to all persons entering their appearance at the hearing.

4. The time for appeal from a final decision of the District Council, including a denial for want of the necessary total of affirmative votes, runs from the date of the resolution or from the date the application was denied for want of the necessary total of affirmative votes.

5. Any party aggrieved by a decision of the District Council may file a petition for judicial review of the decision within 30 days after the District Council's action under the Land Use Article.

6. The decision of the District Council on any application for a Local Map Amendment is final, except that the District Council on its own motion may, within 30 days, reconsider its decision on any application. A decision to reconsider stays the time in which a party may file for petition for judicial review.

If you have any questions regarding this procedure, please contact this office.