

MEMORANDUM

July 1, 2014

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz,  Legislative Attorney

SUBJECT: Worksession #2 – District Map Amendment (DMA) G-956

On June 9, 2014, the Committee reviewed outstanding issues concerning District Map Amendment (DMA) G-956. The Committee made no decisions. This memorandum substantially repeats the June 9 memorandum, but includes new written comments received, additional information requested by the Committee, and Staff recommendations.¹ It does not include a discussion of zoning for Pooks Hill, which will be on the Committee's July 10 agenda. The Council anticipated recommendations for the Committee so that it can be on the Council's July 15, 2014 agenda.

The Council approved a new zoning code with an October 30, 2014 effective date. Although virtually all residential zones will not change in name or development standards, the new code creates some new zones and deletes some current zones. The zoning map must now change to conform to the new code. Except for R-150, RMH-200, RMH, and the name of the Rural Density Transfer zone, there are no changes to mapping residential zones. With regard to all other zones, the Planning Board recommended zones in the DMA with essentially the same development standards (building height and density) as current zoning. The PHED Committee refined that approach to recommend zoning be consistent with master plan recommendations and binding elements in rezoning cases.²

The proposed web-based zoning map (available at www.zoningmontgomery.org) follows published conversion "rules".³ Since the introduction, Planning staff has made changes to the map to correct

¹ As a general rule, staff tries to follow the advice of Lawrence Peter "Yogi" Berra, who said, "If you ask me anything I don't know, I'm not going to answer." In theory, this response rule should mean that answers are only provided where Staff knows something, but in practice Mr. Berra went on to say, "I wish I had an answer to that, because I'm tired of answering that question."

² Following the PHED Committee's recommendation to map master plan recommendations for height and density, all property within the Woodmont Triangle Sector Plan area was mapped with a maximum commercial FAR of 1.0. Under Section C-6.215 of the current code, "[t]he density allowed must not exceed ... the density recommended by the applicable master plan or sector plan." In the case of Woodmont Triangle, the plan states (on page 13):

"FAR – In order to encourage residential development, the recommended increase in density up to the maximum allowed would be for residential development. All CBD zoned parcels within the study area will be limited to an FAR of 1.0 for non-residential development."

³ The 37 pages of conversion rules are attached (see © 1-37).

translation errors (properties mapped in a manner inconsistent with the rules). Documentation of all of those changes to individual properties is also available on the same website.

On June 9, the Committee began its review of zoning map issues.⁴ The Committee will ultimately make recommendations on broad zoning conversion rule changes (which would change the proposed zoning on multiple properties) and problems raised in correspondence regarding individual sites. This memorandum includes all DMA issues that require the Committee's attention. Staff anticipates that the Committee can conclude its worksessions on or before July 10.

Staff is preparing a ZTA to make corrections and clarifications to the new zoning code. ZTAs approved by the Council since the approval of the Rewrite will also be included in this ZTA. That ZTA could include substantive changes as directed by the Committee, or an individual ZTA could be introduced if individual Councilmembers want the Council to consider changes.

Staff identified the following general and specific mapping issues from a review of the record.

1. Alternative translations for the C-1 zone

During the PHED Committee review of the Zoning Ordinance Rewrite last fall, the proposed translation of the C-1 zone was discussed twice. Both times, a majority of the Committee voted to retain the Planning Board's recommendation. However, as part of the reexamination of all translations, Planning staff believes the alternative translation more closely matches the maximum potential under the current code.

The current C-1 zone does not have a maximum density in terms of Floor Area Ratio (FAR). Planning staff estimated the potential maximum FAR in order to establish a limit under the new zone. Upon further review and recalculation of lot coverage to accommodate parking requirements, Planning staff believes a maximum FAR of 0.75 is a better approximation of the maximum potential under the current zone.⁵ The few properties that exceed .75 FAR in the C-1 zone appear to have been developed under a different zone and then rezoned to C-1.

In addition, the translation below simplifies the current proposal by combining the translations for properties abutting or confronting an R-90, R-60, or R-40 zone vacant or improved with a residential use into one translation. Also, in every translation, the maximum total and commercial FAR is the same and the percentage of residential development is limited to 30 percent of the total FAR for all conversions, providing a more uniform translation of the C-1 zone.

⁴ A District Map Amendment (G-956) was filed by the Planning Board on May 2, 2013. The record on the District Map Amendment is still open. Under the current Zoning Ordinance, an application for a sectional or district map amendment must be decided on the record (59-H-7.1). The record includes any correspondence to the Council. Under the new Code, effective October 30, 2014, a decision on a District Map Amendment would not be confined to the record.

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Existing FAR For C-1 Property	Number of Developed properties	% of Developed Properties
0 - .25	173	55%
.25 - .5	92	29%
.5 - .75	35	11%
More than .75	15	5%
Total	315	100%

The average FAR for developed C-1 zoned properties is .29 FAR. The properties that exceeded .75 do not satisfy C-1 height limits and appear to have developed under a different zone than C-1.

The current C-1 translation is edited to show the alternative:

Where C-1 abuts R-200 or a lower density residential zone, or property is >5 acres or contiguous with 5 or more acres, or property is in a master plan designated historic district, convert to NR ~~1-0~~ **0.75** H-45

Where C-1 abuts R-90, R-60 or R-40 zone, convert to CRT ~~0.5~~ **0.75**, C ~~0.5~~ **0.75**, R 0.25, H 35

Where C-1 confronts R-90, R-60 or R-40 zone, convert to CRT 0.75, C ~~0.5~~ **0.75**, R 0.25, H ~~45~~ **35**

Where abutting townhouse or denser zone, convert to CRT ~~1-0~~ **0.75**, C 0.75, R ~~0.5~~ **0.25**, H 45

In low density residential areas where driving to a neighborhood shopping center is almost assured, C-1 translates to NR, the Neighborhood Retail zone. A majority of C-1 acreage falls into this category.⁶ The development standards regarding access and location of parking are compatible with the predominance of auto use in these areas. Height is allowed up to 45 feet. Homes in the surrounding low density residential zones are allowed a height of up to 50 feet.

Where C-1 abuts or confronts an R-90 or higher density zone, C-1 translates to the CRT zone, where the building form standards are more pedestrian-oriented to help create a more walkable environment.

Building height is restricted where a C-1 zoned property shares a property line with or is across the street from homes in an R-90, R-60, or R-40 zone. Homes in these residential zones are limited to a maximum height of 35 feet. Where C-1 abuts a townhouse zone or denser area, height is allowed up to 45 feet.⁷

For large C-1 properties (5 acres or more), a C-1 translation to NR is also proposed, regardless of the abutting and confronting zones. These large shopping centers include pad sites and drive-thrus that are more compatible with the NR zone.

At the Committee's June 9 meeting, Staff reported that the Building Industry wanted more time to consider this change and the change for C-1 and C-2.⁸ Other than a request to refer the C-1 (and C-2)

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Location of C-1 Zoned Land	Proposed new translation	Acres	% Acres
Abuts R-200 or less dense; or comprises 5 acres or more	NR 1-0 .75 H-45	240	71%
Abuts R-90, R-60 or R-40	CRT 0.5 0.75 , C 0.5 0.75 , R 0.25, H 35	30	9%
Confronts R-90, R-60 or R-40	CRT 0.5 0.75 , C 0.5 0.75 , R 0.25, H 35	20	6%
Abuts or confronts townhouse or more dense	CRT 1-0 0.75 , C 0.75, R 0.5 0.25 , H 45	46	14%

In addition, there are 53 acres of C-1 zoned land that have customized transition zones based on their master plan or current overlay zone. Customized transition zones would not be changed by the changed translation in the table above, but would be changed by the Planning Board recommendation to translate all properties in historic districts to NR.

⁷ Councilmember Elrich requested additional information on current building heights on C-1 zoned property. (Development of C-1 property was never the subject of site plan review, unless required due to a special exception approval.) Planning Staff found 25 instances where structures on C-1 zoned land exceeded 30 feet in height. In 15 of those cases, the building was higher along a side lot line (36 feet on average). In only 4 cases was the highest height on the front of the property.

⁸ The Following was received from Steve Elmendorf:

"I serve as Legislative Chair of the NAIOP-MD/DC Chapter, an association representing the interests of the commercial real estate community in Montgomery County. As an association, we have had no opportunity to substantively address these proposals or even to inform our membership about them. I do not believe that the Planning Board has reviewed them. I know that the Planning Board has never taken public comment on them. I do not want to debate their merits in this email. I would strongly urge, however, that these proposals be sent to the Planning Board for its formal recommendation, that can be

newly proposed translation back to the Planning Board, Building Industry representatives do not have a specific recommendation. A representative for Equity One had specific concerns for property in Westbard (see © 38-39). They objected to the reduction in FAR (currently proposed at .75 FAR from formerly proposed 1.0 FAR) because, currently, some properties can use parking on residentially zoned land under certain circumstances today. They object to 1) reduced height (currently proposed at 35 feet from formerly proposed 45 feet) because some buildings, including their buildings, currently exceed 35 feet; and 2) reducing height and density because the land confronts some R-60 zoned land.

Staff recommends using the newly proposed translation. If anything, the height proposed by the translation to 35 feet from the current 30 foot average height is a generous conversion. Buildings above this height will be grandfathered. The Council will have the opportunity to revisit the zoning in Westbard in an upcoming Sector Plan in any event. Despite the current height limits in the C-1 zone, the Committee has indicated a willingness to go to 45 feet in many cases, but not all cases. The proposed conversion recommends a 45 foot height limit for C-1 property if the property is NOT confronting or abutting residentially zoned land that is either improved with houses or vacant. The lower height applies to protect residential communities.

The argument for a 1 FAR is weak. Only 5% of all C-1 properties, including properties that may have been in other zones before being zoned C-1, exceed .75 FAR. It is unrealistic to assume that the current C-1 zone could yield a 1.0 FAR given allowed land uses, height limits, car access, and parking requirements.

In the DMA as introduced, C-1 properties within a historic district are proposed to translate to the CRT, CRN, or NR zone. Planning staff is recommending that, in historic districts, C-1 properties translate to the NR zone only.⁹ This change in translation is proposed to more closely match the uses allowed under the C-1 zone. While the form standards under the CRT translation are preferable, the Historic Preservation Commission (HPC) is well-suited to ensure that form standards similar to those in the CRT zone would be applied where appropriate; however, the HPC cannot regulate the uses allowed within historic structures and, therefore, Staff believes a translation to NR would be a better choice. (The Committee previously considered and rejected the idea of converting all C-1 property to the NR zone.)

The City of Takoma Park staff objected to the universal use of the NR zone in the Takoma Park Historic District alternative. In their view, the NR would be more restrictive and would not be as permissive in allowing different land uses as the CRT or CRN zoning (see © 40-42). The Committee asked for comments by the Mayor and Council of Takoma Park. City elected officials supported the change to the NR zoning, with specific text change in the Takoma Park/East Silver Spring Commercial Revitalization Overlay zone to adjust to an NR based zone for some of the area (see © 43-46). Staff intends to include the City's proposed ZTA to the overlay zone in a ZTA.

Staff recommends using the newly proposed translation, including the proposal, to use NR zoning for historic properties. A consistent FAR translation for a single Euclidean zone is completely reasonable.¹⁰

made after the Board has heard from affected property owners. The PHED Committee should not be considering these proposals without such input. Please include this email in the public record on this matter.”

⁹ Currently, C-1 properties in the Takoma Park historic district are proposed for CRT zoning. Under the proposed policy change, these 11.6 acres would go to NR with the same overlay zone influenced height limit (50 feet). In Capital View, .95 acres would change. Only .2 acres would change in Garrett Park, and an even smaller amount in Sandy Spring (.08 acres).

¹⁰ Staff's previous recommendation to rezone all C-1 property to a single zone was previously rejected by the Committee.

NR is the best translation of C-1 zoning. Expanding its use in historic districts is not objectionable. A consistent allowable housing component is a good idea in translating a single zone to multiple zones. Eliminating the height difference for abutting or confronting residential zones also makes sense.

2. Alternative translations for the C-2 zone

Planning staff also recommends a simplified alternative translation for the C-2 zone, combining the abutting and confronting conversions and setting the residential FAR equal to 30 percent of the total FAR for the abutting/confronting R-90, R-60, or R-40 zone conversions.

The current C-2 translation is edited to show the alternative now recommended by Planning staff and the acreage in each translation category:

Location of C-2 Zoned Land	Proposed Translation	Acres
Abuts R-200 or a lower density residential zone, or is a regional shopping center	GR 1.5 H 45	177.2
Abuts R-90, R-60 or R-40 zone	CRT 1.5, C 1.5, R 0.75 0.5, H 45	6.1
Confronts R-90, R-60 or R-40	CRT 2.0 1.5, C 1.5, R 0.75 0.5, H 45	6.8
Abuts townhouse or more dense zone and is <300' from one-family detached zone	CRT 2.25, C 1.5, R 0.75, H 45	44.7
Abuts townhouse or more dense zone and is >300' from one-family detached zone	CRT 2.25, C 1.5, R 0.75, H 75	84.1

Staff believes that the Planning staff's newly recommended translation more accurately reflects the development limits for C-2 property in the current code.

3. Current nonconforming structures – Should all existing buildings be made conforming in their new zone, even if the building is not conforming under current zoning?

The record of G-956 includes requests to map existing nonconforming properties to their built height and/or density¹¹ (see © 99-106). A similar request was made during the PHED Committee review this past fall regarding the Topaz House in Bethesda and by Equity One (see © 38-39). The Committee was informed that the existing building is currently taller than allowed by the current zone or the proposed mapping, and a request was made to remap the property to accommodate what is built. The Committee declined to make this change, citing the current non-conformance and the grandfathering provisions applicable to the property.

The request to zone to the existing building height and density should not be confused with a modification to the PHED Committee's recommendation to map master plan recommended heights and density. The Committee was aware that applying master plan recommendations for height and density could result in non-conforming structures. The Committee modified the master plan mapping rule to address this situation. The Committee directed Staff to map in a manner that accommodated the

¹¹ A letter is in the record of G-956 regarding 5520 Wisconsin Avenue. The existing building at this location has a higher height and slightly more density than is allowed under the current CBD-1 zone. A representative for the property owner requested that the property be mapped at its existing height and density.

approved project whenever a property owner or their representative requested such accommodation for a built or unbuilt building.

Planning staff applied the Committee's decision rule to buildings that conform to their current zone and that *only* through the mapping of master plan recommendations (in the absence of the Committee decision rule) would the property have become non-conforming. Properties that are non-conforming under the current code are grandfathered, but Staff did not change the zone to accommodate their buildings. The conversion aims to be compatible to the current code; it does not change the status of a property currently unable to meet the zoning code.

Staff recommends retaining the translations to equal heights and densities of the property's current zones and retaining the zoning recommendations of approved master plans. The purpose of the DMA is to translate current zoning into zones in the new code. It is not to change the decisions made in master plans. At the request of the County Attorney's office, Staff will propose amending the grandfathering text to give rights to legally constructed buildings, not all buildings.

4. Binding elements – To what extent should a development plan be binding when all elements are categorized as binding on the plan?

Some current floating zones required development plans (TSR, TSM, MXN, MXPD)¹² (see © 47). Some of those development plans have specific binding elements. The Rewrite refers to development plans and binding elements for the purpose of conformance. There are approved floating zones that do not have development plans.

Concern has been raised in the record as to whether the height and density specified in the development plan are binding if the development plan does not specify them as binding elements. After careful consideration of the development plan language in the current zoning code and the language in the resolution of the rezoning applications, Staff believes that the intent of both is to bind the development to the height and density, regardless of whether or not the plan specifies these as binding elements. The development plan language in the current code¹³ implies that any development must conform to its

¹² Some current floating zones did not require development plans (CT, OM, CP, C-3, HM, I-3, RS).

¹³ Article 59-D. Zoning Districts-Approval Procedures.

Introduction.

(a) In certain zones, the developer must submit plans for approval, and development must be consistent with the approved plans. Article 59-C indicates under each zone which, if any, of these plans are required. These plans are of 4 kinds, as follows:

(1) Development plan. This is a plan submitted as a part of an application for the reclassification of land into the zone, and the approval of the application includes the approval of the plan. (See division 59-D-1.)

Division 59-D-1. Development Plan.

Sec. 59-D-1.1. Zones in which required.

Development in the following zones is permitted only in accordance with a plan approved by the district council at the time the land is classified in one of these zones, as provided by article 59-C, "Zoning Districts; Regulations," and Section D-1.7.

Sec. 59-D-1.2. Development plan general requirements.

(a) In order to assist in achieving the flexibility of the design needed for the implementation of the purposes of these zones, the applicant must submit a development plan as a part of the application for reclassification. A site plan that conforms to all non-illustrative elements of the approved development plan must later be approved under Division 59-D-3 before any building permit is issued.

approved development plan. Because height and density are key factors in establishing the intensity of a development project, Staff believes this language makes height and density inherently binding for a project approved through a development plan and therefore applied that information as zone limits in the proposed map.

Landowners and the Building Industry Association have argued that the limits of their current zoning should be applied (see © 48-49). Under the current code, only a Development Plan Amendment (DPA) is required to increase height and density to the maximum of the zone. Changing height and density in a CR or CRT zone is a zoning change. As proposed by Staff, a Local Map Amendment (LMA) for a new zone or a Sectional Map Amendment (SMA) would be required instead of merely a DPA. Staff notes that both processes require a Council decision after a quasi-judicial hearing by the Hearing Examiner.

The Building Industry wants to retain the maximum height and density in the current zone without regard to any approved development, except for any specifically binding elements. (This argument is also made by representatives of the Grove property at © 50 and by the subject of an individual property item in this memorandum.) Under this idea, the discretion for development above standard method would be with the Planning Board (at least sketch plan approval and site plan approval). The Council would not have a future role in the Building Industry’s proposed process absent a ZTA, LMA, or future SMA.

Where a development plan is not required by the current zone and there is no clear intent for the developer to be bound by the description of proposed development, the property retains the height and density of its approved floating zone without limitation under the proposed DMA. An even more expansive view of binding elements than the one taken by Staff would be to make any numeric limit stated as part of the approval as the basis for rezoning. Planning staff did not recommend this more expansive approach.

In Staff’s opinion, the limits in the development should be treated as binding elements. The current provision in Section 59-D-1.1 is clear on this point:

Development in the following zones is permitted *only in accordance with a plan approved by the district council at the time the land is classified* in one of these zones.

(b) Sec. 59-D-1.3. Contents of development plan.

(h) In the zones indicated by "X" below, the following shall also be shown:

	P-D	"Mixed Use PD"	Town sector	P-N	R-MH	TS-R	TS-M
(1) The maximum population proposed for each residential area.		X	X	X			
(2) A diagram showing the general build and height of the principal buildings and their relationship to each other and to adjacent areas.		X				X	X
(3) The gross floor area of buildings, by type of use, and the FAR.		X				X	X

It has not been Staff's interpretation that binding elements include restrictions on land use. That issue will be raised and considered by Council in the context of a future ZTA, to clarify the Council's intent one way or the other.

5. Rounding for property currently zoned I-1

CR zones change in increments of .25 in FAR and 5 feet in height. When the current zoning envelope falls in between those marks, the translation rounds up. A particular concern was raised by the Citizens Coordinating Committee on Friendship Heights, which objected to the I-1 zone with a 42 foot height limit being translated to 50 feet (see © 52-53). Planning staff's translation summary states:

I-1 Default: IM-2.5 H-50

The I-1 zone allows a maximum building height of 42'; however, the Planning Board increased the height in the conversion to 50' after hearing concerns from several industrial property owners about the height necessary to accommodate certain industrial uses. The I-1 zone has no maximum FAR; the 2.5 FAR in the conversion accommodates existing buildings. Under special regulations in the I-1, height can be increased up to 120' for providing an employment center if the master plan does not indicate that large employment centers are unsuitable.

Only 24 out of some 500 I-1 zoned properties (5%) are abutting single-family residential zones and would allow a building height of 50 feet. Another six I-1 zoned properties that abut residential zones would be limited to 45 feet due to master plan height restrictions.

Staff recommends using the Planning Board proposed default translation.

6. Property specific requests

a. Greater Colesville

In a letter dated April 13, 2014, the Greater Colesville Citizens Association requested that zoning for 2 properties in the commercial area of Colesville be modified to match the zoning proposed for other contiguous properties in the same block. Currently, the NR and CRT zones are proposed (see © 54-58).

Both of these properties has a proposed density that is greater than the other properties within the block. This occurred because the other properties within the block abut property in a residential zone. The alternative translation for the C-1 zone suggested above eliminates this disparity in density, since the alternative translation proposes the same maximum density for all C-1 conversions.

Planning staff's proposed alternative translation would not change the base zone. In one case, the majority of the block is proposed to translate to NR (it abuts property in an RE-1 zone), while one property at the intersection of Randolph Road and New Hampshire Avenue would still convert to CRT, since it abuts and confronts only other commercial zones.

Staff only recommends changes to conform to the C-1 translation proposed by Planning staff.

b. C-2 along Oak Drive in Kensington

There is a request by a resident of Kensington to translate a C-2 property along Oak Drive, confronting an R-60 neighborhood, to CRN rather than CRT (see © 59-65). Planning staff did not change the translation rules for a particular property; however, the alternative translation proposed to the Committee for C-2 would result in a lower FAR and a lower maximum height for this property.

Staff recommends a change to conform to the C-2 translation proposed by Planning staff.

c. Ambassador Hotel site and building height generally

The same Kensington resident who expressed concern over the Oak Drive site (and was very involved in the Wheaton plan) wrote in with a concern over the additional height and density allowed for the provision of more than 12.5 percent MPDUs (see © 59-65). There was particular concern for the Ambassador Hotel site in Wheaton.

In the course of its work on the Zoning Rewrite, the Council was persuaded that the existing and proposed code did not give sufficient incentives for MPDUs. To that end, the Council generally allowed additional height to the extent required for the floor area taken by the MPDUs in excess of 12.5 percent. The allowance for additional height did not change the compatibility rules (building setbacks next to one-family residential zones must be 1.5 times the residential setback; at the start of the setback, the height may be no greater than the height allowed in the residential zone with 1 foot increase in height for each additional 1 foot setback thereafter).

The Council's actions with regard to density and MPDUs should also be noted. If the project provides between 12.5 percent and 15 percent MPDUs, then the floor area required above 12.5 percent MPDUs is not counted against density. If more than 15 percent MPDUs are provided, then all of the floor area used for MPDUs is not counted against density. The Council does not expect wholesale use of these MPDU provisions due to the price restrictions on MPDUs and the cost of high-rise construction. This would include Wheaton. If the occasional property, such as the Ambassador property, exceeds master plan recommended building heights, that is acceptable to the Council. The Council believes that providing more MPDUs enhances the public interest more than the strict adherence to master plan recommended height limits. Any change to these situations would require a ZTA, not a map change.

The provision for property in central business districts, which only allows higher buildings for workforce housing and master plan recommended properties in zones with less than 145 feet, is a repeat of the current code, which was not changed; height may be increased by a factor of 1.5 times the height stated in the zone. (CBD zoned properties that were not rezoned by SMA to a CR zone will have a "T".) A property that allows more than 145 feet would NOT be allowed to increase its height. This could lead to a property designated with a lower height getting a building with a higher height than its more entitled neighbors. Staff will address this issue in a ZTA so that the Council can either leave this situation or make additional height available to property zoned for taller structures.

There appears to also be a problem in the code as approved with a building that will be all MPDUs (see © 66-67). Such a building would have no height limits and there would be no FAR limit. Now the likelihood of an all-MPDU building would be extremely low, but the fear of an all-MPDU building with unlimited height and density is extremely high. This problem can be addressed in a future ZTA before the effective date of the new code. Staff will propose limiting additional height to 30 feet and additional density to 1.5 times the stated density.

d. Kaiser Foundation Health and the Symmetry at Cloverleaf sites in Germantown

A letter from a representative for the Kaiser Health Plan Foundation is in the record (see © 68-71). An additional letter from Symmetry at Cloverleaf in the same area with the same complaint was also received (see © 72-75). The Kaiser Health Plan Foundation owns undeveloped land in Germantown, zoned TMX-2. In the zoning translation, this property is proposed to convert to CR 1.0, C 0.75, R 0.5, H 145 T.

In the May 2, 2013 proposed DMA, the Planning Board recommended this property translate to CR 2.0, C 1.5, R 1.5, H 150 T. Following direction from the PHED Committee to map master plan recommendations regarding height and density, the translation for the property in question was revised to CR 1.0, C 0.75, R 0.5, H 145 T. The owners believe that the Planning Board's original recommendation for the site should be applied.

To implement the Committee's recommendation to zone to the master plan decision rule, Staff does not recommend a change from Planning staff's current proposal. Both properties are part of the Germantown Forward Sector Plan, adopted in October 2009. The Sector Plan identifies this property as part of the "Seneca Meadows property (North of Crystal Rock Tributary)" and recommends the following:

"Concentrate mixed-use development at the transit station with an average density of 1.0 FAR on the Seneca Meadows property north of Crystal Rock Tributary (SM-1). To ensure the area retains an employment profile, develop with a minimum of 70 percent employment uses that include limited street level retail and a maximum of 30 percent residential uses. Street level retail must conform to the Plan's urban design guidance." [Page 67, first bullet]

While the Sector Plan recommends an *average* of 1.0 FAR for the Seneca Meadows area, this could only be achieved by limiting all properties to a 1.0 FAR, or allowing some properties an FAR greater than 1.0 and restricting other properties to an FAR of less than 1.0. In an effort to treat all properties in a uniform manner, the properties in Seneca Meadow are proposed to translate to CR with a 1.0 FAR.

The representatives of Symmetry claim that the Sector Plan could have recommended TMX-1 if it wanted to limit density to 1 on each site. They fail to note that there is no TMX-1 zone. The Kaiser representative submitted additional material that noted this was the only place where there is a master plan recommended density average (see © 76-77).

Staff recommends retaining the zone proposed by Planning staff. The Council could apply the previously recommended zone to CR 2.0, C 1.5, R 1.5, H 150 T if it does not fear the risk of higher density.

e. Property in the TOMX-2 and TOMX-2/TDR zone near Shady Grove metro

The owner of three parcels (N171, N313, N388) located in Shady Grove near the Shady Grove Metro Station requested relief from the proposed zoning (see © 78-79). A representative for these properties believes the proposed translation represents a down-zoning of residential density.

The TOMX-2 and TOMX-2/TDR zones do not have a default conversion because every property under a TOMX-2 or TOMX-2/TDR zone has a master plan recommendation for height and density. The most

closely related new zone is the CRT zone. All of the properties zoned TOMX-2 (and TOMX-2/TDR) were translated to CRT except for one property, which was converted to CR to accommodate height above the maximum allowed under the CRT zone.

The Sector Plan includes a map which indicates the density limitations for each of these properties.¹⁴ The map divides the region into several named areas. Specific language for each of the areas is also in the text.

The areas defined by the sector plan are:

- Metro West
Subdivided into the “1.6 FAR area” – this includes N171. The map on page 35 notes the following limitations for this area: 1.6 FAR, and 30-40 du/ac and the “1.4 FAR area” – **(none of the 3 parcels falls in this area)**
- Metro South
Subdivided into the “1.6 FAR area” – this includes N313. The map on page 35 notes the following limitations for this area: 1.6 FAR, and 30-40 du/ac and the “1.4 FAR area” – this includes N388. The map on page 35 notes the following limitations for this area: 1.4 FAR, and 25-30 du/ac

Within the text of the sector plan, more specific direction is given.¹⁵

For the 1.6 FAR Area (including parcels N171 and N313)

The recommendation for 1.6 FAR is the total base density, without bonus density that can be achieved through TDRs or MPDUs. While it’s true that there is only a minimal requirement for commercial, there is a cap of 40 dwelling units per acre in base residential density. Under the TOMX-2 and

¹⁴ Page 35 of the Sector Plan.

¹⁵ Metro West is discussed starting on page 39 of the Plan. An excerpt is below:

- *Providing some commercial uses within all development to ensure an adequate mix of uses. Retail at the ground level should be achieved on blocks with good market visibility.*
- *Allowing a base range of 1.4 to 1.6 FAR as shown on the Density Distribution Map. Require a minimum of 70% residential uses and allow up to a maximum of 30% commercial uses. A variety of unit sizes must be provided. In the 1.6 FAR area, allow a base density range of 30-40 dwelling units per acre. The number of units per acre may increase for workforce housing, TDRs, and MPDU bonus density.*
- *Providing 20% TDRs for properties within the base density of 1.6 FAR, potentially achieving up to 2.0 FAR and 50-60 dwelling units per acre. (The 2.0 FAR and 50-60 dwelling units per acre is only achievable with the density bonus provided by the purchase of TDRs, provision of 15% MPDUs, and the provision of workforce housing)*

Metro South is discussed starting on page 42 of the Plan. An excerpt is below:

- *Creating a mixed-use residential community with office and retail, oriented toward MD 355 and Redland Road.*
- *Allowing a density range of 1.4 to 1.6 base density FAR with a minimum of 70% residential and a maximum of 30% commercial uses.*
- *Providing 20% TDRs for properties with a base density of 1.6 FAR potentially achieving up to 2.0 FAR and up to 50-60 dwelling units per acre. (The 2.0 FAR and 50-60 dwelling units per acre is only achievable with the density bonus provided by the purchase of TDRs, provision of 15% MPDUs, and the potential for workforce housing).*
- *Providing some commercial uses within all development to ensure an adequate mix of uses. Retail at the ground level should be achieved on blocks that have good visibility.*

TOMX-2/TDR zones, all of the provisions regarding density must be followed. A maximum of 1.6 FAR is allowed only if the maximum number of dwelling units does not exceed 40 units per acre.

In translating zones where residential density is given in terms of dwelling units per acre, Planning staff used a standard unit size. Assumed unit sizes varied by unit type and whether a property is inside or outside of a Central Business District (CBD). For the properties in question, 1,437.5 square feet per unit was used (1,250 square feet is average dwelling unit size times 1.15 to account for common areas like lobbies and hallways.) Forty dwelling units per acre at that average size equals a FAR of 1.32. The base Residential in the proposed translation is 1.5 FAR. This residential FAR represents a rounding up of the calculated FAR to accommodate the potential for workforce housing and the requirement for a mix in unit type. The density bonus for the provision of MPDUs is accommodated by the T language. The bonus density awarded for the purchase of TDRs is accommodated by the TDR overlay.

What the owner views as a potential down-zoning of residential density involves the difference between the proposed maximum residential density of 1.5 FAR and the 1.6 total FAR allowed under the current code. The premise is that in projects that are mainly residential, the provision of a modest amount of commercial development allows a property owner the ability to develop the remaining FAR as residential – up to potentially a 1.59 FAR. The proposed translation capping residential density at 1.5 is a potential loss of up to .09 FAR.

In translating total density for these parcels, Planning staff rounded total density up to 1.75 FAR. Residential density was not rounded up to 1.75 FAR following a Sector Plan recommendation for mixed-use. In addition, if the residential FAR were set at 1.75, this increase could be a disincentive for the purchase of Transferable Development Rights (TDRs).

For the 1.4 FAR Area (including parcel N388)

The recommendation for total density is 1.4 FAR. Similar to the other parcels, while there is only a minimal requirement for commercial FAR, there is a cap of 30 dwelling units per acre in base residential density. Thirty dwelling units per acre at 1437.5 square feet per unit would equal an FAR of 0.99. The base Residential in the proposed translation is 1.25 FAR. This residential FAR represents a rounding up of the calculated FAR to accommodate the potential for workforce housing and the requirement for a mix in unit type. The density bonus for the provision of MPDUs is accommodated by the T language.

In translating total density for this parcel, Planning staff rounded up to 1.5 FAR. Residential density was not rounded up to match total density following a Sector Plan recommendation for mixed-use. The parcel in this area is not in a “TDR” zone.

Staff recommends retaining the zone proposed by Planning staff. If residential FAR were the only measure of density in the Sector Plan, Staff would agree with the owner. The maximum dwelling unit density in the Plan is a further limit which makes the Planning staff recommendation sound.

g. TS-M zoning and the Grove Site

The proposed zoning for the TS-M site located at the intersection of Shady Grove Rd and Rte 355 has been a subject of review. The density and the height of the zone were lowered in the April 2014 version of the DMA, over the protests of the property owner (see © 50-51). Staff believes height and density should be adjusted once again based on an analysis of the site’s original development plan approval and subsequent amendments.

In the May 2013 proposed DMA, this TS-M site was mapped to the maximum density allowed in the existing zone (3.0 FAR). Since the TS-M zone does not specify a maximum height, Staff chose a height based on an assumption about the tallest approved building in the TS-M zone. The zone initially proposed for the site was CR 3.0, C 2.5, R 2.5, H 200. Presumably, the property owner anticipated a redevelopment scenario based on this original proposed zoning classification.

After the Council postponed the adoption of the DMA, Planning staff undertook a detailed review of the justifications for all proposed zone translations. Planning staff decided that the original approach to the TS-M translation was overly permissive, given that TS-M is a floating zone approved by the County Council in conjunction with a development plan that specifies a proposed height and density. Given the PHED Committee direction to map height and density based on master plan recommendations, mapping to Council approved development plans seemed the most consistent approach.

Planning staff did not immediately find the development plan. A site plan was used as the basis for the April 2014 revised zoning classification. Site plan 8-1982-0310 authorized approximately 0.43 FAR of commercial development on the site, but the site plan included only a portion of the existing development. The existing hotel on the site was not included on this site plan. Because the site plan did not cover the entire site, Staff rationalized this zoning translation based on the maximum density allowed on surrounding properties (1.5 FAR), and estimated the height of the hotel, the tallest building on the site (seven stories or 80 feet). The translation on the website as of April 19, 2014 is CR 1.5, C 1.5, R 0.25, H 80 T.

After further review of this site, Planning staff identified two development plans approved for this site.¹⁶

To most accurately reflect the zoning approved by the development plans above, Planning staff recommends the following zoning: **CR 0.75, C 0.75, R 0.25, H 80 T.**

¹⁶ These zoning approvals give precise zoning specifications for this site, as detailed below.

Zoning History

January 1978: Application G-7 was approved by County Council to reclassify 3 contiguous parcels, consisting of 4.264 acres, from the C-1 and R-200 zones to the TS-M zone. The Council Resolution (8-1717) states, "According to the Amended Site Development Plan, part of the evidence of record, the applicant intends to develop 13,000 square feet of retail and 55,000 square feet of office space on the subject property. The evidence of record reflects that the subject site will be developed with a five-story office building to accommodate the 55,000 square feet of medical office space." Furthermore, the *Resolution to Grant* language states, "that - Application No. G-7 for the reclassification from the C-1 and R-200 zones to the TS-M zone of 4.264 acres of land being property known as 'part of L. F. Hunt property' located at the southwest quadrant of the intersection of Shady Grove and Maryland State Route No. 355, Gaithersburg, in the Ninth Election District is hereby granted for the TS-M zone in the amount requested."

April 1984: Application G-401 and Development Plan Amendment 83-4 were approved concurrently by County Council. Application G-401 reclassified a 26, 423 square foot parcel, located next to the TS-M property, from the C-3 zone to TS-M zone. The combined G-7 and G-401 tract is 4.9 acres. According to Council resolution 10-673, "the development plan proposes a seven-story, 126 unit hotel-motel to be located immediately south of existing TS-M development. The new building would ... contain about 61,600 square feet... The floor area ratio would be limited to .5585... " DPA 83-4 integrated the G-401 property under a unified development plan including the previously approved G-7 property. The *Resolution to Grant* language states, "that - Application No. G-401 for the reclassification from the C-3 zone to the TS-M zone of 26,423 square feet of land known as Lots 5, 6, and part of Lot 4, Block 3, Michel C Zetts Subdivision, located at 9 Fedor Street and 907 Zetts Avenue, Gaithersburg, in the 9th Election District is hereby granted for the TS-M zone in the amount requested and subject to the specifications and requirements of the combined development plan amendment approved above."

Staff recommends retaining the zone proposed by Planning staff. This is a case study of the concepts described under the previously discussed binding elements topic. If the Committee disagrees with considering development limits in development plans as binding, then the zoning on this site should be the maximum of the TS-M zone.

An alternative resolution would be to retain TS-M zoning in the new code.

h. C-4 zoned property in Westbard

The Citizens Coordinating Committee on Friendship Heights believes that the proposed translation should limit the height to 30 feet and the density to .25 FAR (see © 52-53). The C-4 zone allows higher height unless the master/sector plan says that the height is not appropriate.¹⁷ Planning staff used the following translation rule for C-4 zoned property:

¹⁷ 59-C-4.372 Building Height. No building shall exceed the following height limits:

- Stories –2
- Feet – 30

59-C-4.373 Floor Area. The total floor area of buildings, including cellars shall not exceed 0.25 FAR.

...

59-C-4.378 Special Regulations – C-4 Zone.

Development above FAR 0.25. In order to encourage the orderly grouping and planned development of low-intensity, highway commercial centers, to limit the number and to control the location of access points to C-4 zoned sites, and to generally enhance the appearance of small commercial centers located along major roadways, the following optional method of development may be permitted, provided that the applicable approved and adopted master plan does not indicate that higher intensity commercial development above FAR 0.25 would be unsuitable for the applicable site; and provided further that the following site development standards and site plan review procedures shall be in effect. If this method is used, all of the above requirements of the C-4 zone shall be met except as follows:

(a) ...

(b) Development density. Increases in the floor area of buildings, above FAR 0.25, may be permitted, up to a maximum FAR 0.75, upon a finding by the Planning Board that an increased amount of floor area, above FAR 0.25 would be compatible with the intensity of surrounding existing and planned land uses, would not have an adverse impact on existing and planned public facilities in the area and would be in accord with the land use recommendations and guidelines of the applicable approved and adopted master or sector plan.

(c) Height limit. No building shall exceed three stories or 40 feet in height.

There’s a table on Page 65 of the Sector Plan that describes the development standards of all the zones in Westbard. In the line for C-4, it says this:

ZONE	Min Lot Size	Height Limit	Density
C-4 Limited Commercial	None	3 stories or 40 feet	0.25 FAR (up to 0.75 FAR under optional method)

The Sector Plan identifies the areas zoned C-4 as: A, E (portion), J (portion), and L. The recommendations under the Plan are as follows. None specifically say the Optional Method is inappropriate.

Analysis Area A

Recommendation

This site along the north side of River Road should be designated for limited commercial uses. The new zoning category entitled “Limited Commercial” (C-4) is designed to allow for low density, limited commercial uses including auto filling stations under special exception permit. This zone is included in the Appendix of this report. The Zoning Proposals section contains discussion on several other zoning alternatives which were considered but regarded to be less effective in achieving the foregoing objectives.

Analysis Area E

Recommendation

It is recommended that this be rezoned to the new C-4 Zone, as contained in Appendix B of this report, with the exception of the C-1 parcel along Ridgfield Road and the Kenwood Professional Building which is recommended for the C-O Office Zone. If properties are assembled for redevelopment, the number of curb cuts should be reduced during resubdivision. The vegetative cover along the Willett Branch stream banks should be restored.

If less than 2 acres in size or master plan recommends lower intensity: CRT 0.25, C 0.25, R 0.25, H 35.

The C-4 zone typically allows a maximum building height of 30' and a maximum FAR (including cellar space not used for storage) of 0.25.

If 2 acres or greater in size and master plan doesn't recommend against greater density: CRT 0.75, C 0.75, R 0.5, H 40.

There are special regulations for development above 0.25 FAR in the C-4 zone. The special regulations allow a maximum building height of 40' and a maximum FAR of 0.75, as long as the "master plan does not indicate that higher intensity commercial development above 0.25 FAR would be unsuitable for the applicable site...." To achieve this higher density and height, the lot must be a minimum of 2 acres in size.

In the opinion of Planning staff, the Sector Plan did not make the required finding that additional height is unsuitable.¹⁸

Staff recommends retaining the Planning Board recommended height.

i. 1315 Apple Avenue in Silver Spring (west of Second Avenue)

The property is currently zoned CBD-1 with a proposed translation to CR 3.0, C 2.0, R 2.75, H 90 T. Other properties on the block are currently zoned CBD-2. The owner's representative requests a new conversion rule as follows:

If parcel [sic] abuts a heavy public transportation facility that is not below ground at that location, and abuts or confronts CBD-2 property on at least two of the remaining three sides, then, if requested by the property owner, convert to: CR 5.0, C 4.0, R 4.75, H 145 T [(see © 80-85)].

Analysis Area J

Recommendation

It is recommended that the zoning be changed to the I-1, Light-Industrial Zone with the exception of Parcels MK-1 which is designated for the C-4 Limited-Commercial Zone so as not to generate high levels of traffic in this small area between two intersections. Other acceptable zones for redevelopment would be the C-T, Commercial Transition, or O-M, Office Building Moderate-Intensity Zone if applied for by the owners. Where property assembly occurs, elongated buildings parallel to Little Falls Parkway and extending between side lot lines should be encouraged so as to block the noise from trucks on Butler Road. If redeveloped to office uses, new buildings should be constructed in an office-townhouse configuration.

Analysis Area L

Recommendation

It is recommended that all of the properties fronting on River Road, including Security Storage, be rezoned to the new C-4, Limited Commercial use. A change to the C-4 Zone would place all parcels in a single consistent zone better fitted to the existing uses and, at the same time, place more suitable limitation on possible future use changes. In view of the existing parking deficiencies in the area, any proposed change in use requiring a special exception permit will require careful analysis.

¹⁸ The Coordinating Committee would point out that the proposed conversion increases the height above the 30 foot average that is set out in the Westward Sector Plan. Page 54 of the Sector Plan states that the Westwood Shopping Center is built to its maximum capacity. It then goes on to say that the C-1 zone is the lowest intensity commercial zone which is appropriate and that it is recommended to be retained. Also, the chart in the Sector Plan lists an average of 30 feet for the site. A new zone of 45 feet will not lead to an average of 30 feet.

Staff recommends retaining the current translation rules and NOT changing the proposed zone on this property. The requested change would increase the allowable density and height beyond the master plan recommended zone.

j. Woodmoor Shopping Center

A resident of Woodmoor, who attended one of the Planning Department Open House events held this spring on the proposed DMA and who wrote several emails, expressed continued concern over the proposed translation of the C-4 zone to the CRT zone. Her primary concern is with additional uses allowed under the CRT zone. She would prefer that the Woodmoor Shopping Center translate to the CRN zone; however, if that is deemed too restrictive, she would like the Committee to consider a translation to the NR zone.

Planning staff initially recommended that the C-4 zone translate to the CRN zone; however, the Planning Board changed the C-4 translation to the CRT zone upon review of the uses that would no longer be available to C-4 property owners under the CRN zone. Under the CRN zone, property owners would lose the rights for the following:

- Structured parking as a stand-alone use
- Funeral Home, Undertaker
- Retail over 15,000 SF (the C-4 allows appliance shop, bank, furniture store, clothing store, hardware store, drugstore, bookstore, jewelry store, etc., some of which have the potential to be 15,000 SF or larger)
- Car Wash
- Filling Station

The Planning Board was concerned about removing uses like the car wash and filling station, as many of these sites have developed with these uses.

Staff recommends retaining the Planning Board recommended CRT zone. Part of this site was used for a gas station before MdDOT made improvements to the Four Corners intersection.

k. Apex building

The Apex building was included in the Bethesda Purple Line Sectional Map Amendment (SMA) (G-961). The SMA was approved on June 17, 2014 with CR zoning for 6.5 acres of property, including the 1.9-acre Apex building site. (The DMA **will** be identical to the SMA zoning.) Any building existing on October 30, 2014 may be rebuilt to its October 30 height, floor area, and footprint without regard to its zoning. The new code also gives the building owner some rights to enlarge an existing building (the lesser of 10% of the existing floor area or 10,000 square feet) under the standards of their zoning on October 29, 2014. Because the property was rezoned under the approved SMA, its zoning on October 29, 2014 will no longer be a CBD zone. The property owner's representative believes that the property will be disadvantaged by not being grandfathered to its CBD zoning (see © 86-87). He requests using an earlier date (before June 17, 2014) for determining the grandfathered zoning.

Staff does not recommend any change that expands grandfathering rights. If the Council has made a decision to change zoning by virtue of a master plan change before the DMA, that decision should affect the base zone used for grandfathering. To do otherwise is an expansion of grandfathering rights. Two

additional SMAs may be approved between June 17 and October 30: Long Branch and White Oak Science Gateway.

l. Tri-State Stone (near the intersection of River Road and Seven Locks)

The representatives of Tri-State Stone requested a note on the DMA that there is a grandfathered use. *Staff would not recommend any such note.* The owner can seek a letter from the Department of Permitting Services to confirm the status of their operation (see © 88-89).

m. Property in Darnestown currently zoned RE-2, recommended for the RE-2 or Country Inn zone in the master plan

A representative for this property spoke at the public hearing on the DMA. The PHED Committee discussed the proposed translation for this property during one of its worksessions last fall. At that time, the Committee voted to retain the RE-2 zone proposed by Staff.

The representative for this property maintains that the use of this property is unfairly limited by the proposed zoning (see © 90-91). This property is currently zoned RE-2. The proposed translation reconfirms the RE-2 zone for this property. The Potomac Master Plan recommends either the RE-2 zone or Country Inn zone for this property. The concern over the usefulness of this property stems from the fact that the existing lot is slightly less than 2 acres in size. This means the property cannot meet the minimum lot size for development under the RE-2 zone. However, a Country Inn can be approved for a property of less than 2 acres in size, if it is recommended in the master plan. Therefore, while a detached house cannot be built on this property, a Country Inn could be, and under the adopted code a Country Inn would require a conditional use approval, rather than a rezoning through a local map amendment. The additional material submitted (see © 92-98) was not persuasive because the subject property was not recommended for commercial zoning.

Staff recommends confirming the current RE-2 zone; it is consistent with how all RE-2 zoned property has been translated.

n. Qiagen property – Germantown

The owner of a split zone property would like a single zone for the property and text amendments that would accommodate the current use of the property (research and development, laboratory, manufacturing, warehouse, and distribution. See © 107-117).

The Qiagen property is zoned I-1 and has a building height of 79 feet. Planning Staff recommends rezoning the property to I-M with a height of 80 feet to accommodate its existing and approved building height.

The uses allowed by the proposed zoning are sufficiently broad to allow current uses on the property to continue and expand. *Staff does not recommend an additional text amendment to accommodate what would already be allowed.*

Staff does not recommend applying a single zone to the property. Rezoning the property to a single zone would be counter to the master plan recommendation and would entail a conversion process that Planning staff have not considered as part of this DMA.

o. Property owned by Pleasants Development

Pleasants Development owns or represents 35 lots and parcels (including 1 outlot). The owner said in a letter to the Council that he is still evaluating proposed changes to these properties and may submit additional material. Without any specific complaint, he requested that he or his representative be able to participate in the Committee’s worksessions (see 118-119). A later email to Staff (see © 120-123) indicated 1) a complaint with zoning text issues (the inability to apply for PD zoning in the future); and 2) a request to be mapped to the maximum IM zoned density whenever IM zoning was along Frederick Road (not current approved development).

Staff does not recommend the participation of the Pleasants representative unless the Committee is open to a worksession that invites all interested residents to the table.

7. Map corrections – proposed for inclusion in the DMA

Property ID/Location: Part of Parcel W, Block E, “Stonebridge” located at 10400 Darnestown Road, *Potomac Subregion Master Plan*

Proposed Reclassification: 1.25 acres from the R-200 zone to the PD-3 zone

Parcel W, Block E is located on the southwest corner of Darnestown Road and Hunting Lane (Subject Property). The Property is occupied by the King of Nations Christian Fellowship, a religious organization. On October 1, 1986, the Subject site was rezoned from the R-200 Zone to the PD-3 Zone, via a local map amendment G-523 (County Council Resolution 10-2227). An associated development plan amendment (DPA 85-2), which amended G-262, was included to add the proposed religious institution to the existing overall development plan, known then as “Stonebridge.” However, currently, the zoning maps show the Property split-zoned as PD-3 (4.31 acres) and R-200 (1.25 acres).

In 2002, the District Council granted G-800, implementing the zoning recommendations from the 2002 Potomac Subregion Master Plan (Council Resolution 14-1468). It was in this SMA that the zoning map error occurred. In the 2002 SMA books, the “existing” and “proposed” zoning maps showed this property as being split-zoned, with part of the property being R-200 and part being PD-3. The portion marked R-200 is identical to the portion that was rezoned from R-200 to PD-3 under G-523/DPA 85-2.

It appears the error occurred when transitioning the new zoning maps from hand-drawn into a digital database and a misinterpretation of the zoning boundary for the R-200 was drawn in error. Essentially, the Subject Property was redrawn to be split-zoned in the R-200 and PD-3 Zone. The District Council adopted SMA G-800, incorrectly and unintentionally rezoning a portion of this property from PD-3 to R-200.

Further, the text of Council Resolution 14-1468 does not indicate that this property was to be rezoned, nor does the application associated with the SMA proposed changes.

Staff recommends rezoning approximately 1.25 acres of the Subject Property from the R-200 zone to the PD-3 zone to correct the error in the current and future zoning Maps.

Property ID/Location: Chevy Chase Center

Proposed Reclassification: CR 0.75, C 0.75, R 0.25, H 40 T to CR 0.75, C 0.75, R 0.25, H-55 T

The Chevy Chase Center, located at the southeast corner of Wisconsin Avenue and Montgomery Street in Friendship Heights, is currently zoned TS-M. It is subject to Preliminary Plan 119990830 and Site Plan 820010130. The Friendship Heights Sector Plan (1998) recommends the same densities as developed under the Preliminary and Site plans, as it was written as the development was being proposed.

The TS-M zone is a floating zone that has approved density and height applied by LMA. For that reason, all TS-M zones receive a non-standard conversion in the DMA to reflect, as nearly as possible, the density and height that is currently approved for the site. In the specific case of this site, the Sector Plan and Prelim/Site Plan allow development up to 112,000 SF (0.57 FAR) on this site, and height up to “3 stories”. Staff translates “stories” to feet by multiplying the number of stories by 10 feet and then adding 10 feet for the base.

The site developed in the manner described in the Sector Plan and Prelim/Site Plan. The proposed translation is to **CR 0.75, C 0.75, R 0.25, H 40 T**.

According to the plan (Sheet A7) on the certified site plan, the roof elevation is 367.25 feet and the top of the curb nearest the middle of the building is 315.11 feet. That difference (the building height) is 52.14 feet; significantly higher than would be expected from 3 stories.

Because the building is conforming to the zone today by virtue of only being 3 stories [Planning] staff recommends revising this non-standard translation (known in our documentation as non-standard FSHIP-06) to **CR 0.75, C 0.75, R 0.25, H 55 T**.

Possible substantive zoning text changes for a ZTA in addition to corrections of errors, or omissions, and clarifications:

1. Amend Takoma Park Commercial Revitalization Overlay zone.
2. Ripley area - restore standard method maximum under CR for the Ripley/South Silver Spring area.
3. Add green area requirement where floating zones were approved.
4. Allow increased height for more MPDUs in T zones when height limits are greater than 145 feet.
5. Keep illegal buildings illegal.
6. Change the date from which the grandfathered zone is determined.
7. Provide for Registered Living Units in grandfathering provisions.

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Detailed Summary of Zone Translations

C-T (Commercial, transitional) floating zone

Default: CRN-0.5 C-0.5 R-0.25 H-35

The current zoning code specifies a maximum density of 0.5 FAR and maximum height according to lot size:

- on a lot with an area of less than 12,000 square, the maximum height is 24'.
- on a lot with an area of 12,000 square feet or more, the maximum height is 35'.

Seven (out of 36) of the CT zoned properties are less than 12,000 sf; some of which are currently built to a height above 24'. Since the surrounding houses are allowed to be 35' or higher, and the majority of C-T zoned property has a lot area of more than 12,000 square feet, staff felt a maximum height of 35' was appropriate for the conversion of all the C-T zones, regardless of lot size.

O-M (Office building, moderate intensity) floating zone

Default:

If lot is less than ½ acre: **EOF- 1.5 H-60**

If lot is greater than ½ acre: **EOF- 1.5 H-75**

The current zoning code specifies a maximum density of 1.5 FAR in the O-M zone. The height in the O-M zone is based on lot size. On lots less than ½ acre, the maximum height is 60'. On lots greater than ½ acre, the maximum height is 72'. Staff retained the lot size distinction in mapping height as the O-M heights are greater than the maximum height in any residential detached, or townhouse zone.

Custom SANDY-05: EOF-1.0 H-35

The density and height are modified by the Sandy Spring/Ashton Rural Village Overlay zone. The Overlay zone limits the commercial density to 0.75 FAR. Since the EOF zone limits Household Living uses to 30% of the total gross floor area of the subject site, 0.23 FAR of Household Living uses and an overall total FAR of 0.98 would be possible under the Overlay zone. The Overlay zone limits the height to 30', based on site plan approval. However, the EOF zone must be mapped at a minimum height of 35', so this property is mapped accordingly.

Custom TAKOM-06: CRT-1.5 C-1.5 R-0.5 H-50

Planning Staff in the City of Takoma Park requested that the O-M properties adjacent to C-1 and C-2 in Takoma Park translate to CRT instead of EOF for a more consistent zoning pattern in the City. The subject O-M properties fall under the Takoma Park/ East Silver Spring Commercial Revitalization Overlay zone, and the translation of these properties to CRT furthers the intent of the Overlay zone. The height of the translation is also modified by the Overlay zone:

*...building height is limited to 30 feet. However, the Board may allow a building height:
(i) up to 42 feet for commercial development, and (ii) up to 50 feet to accommodate*

residential development if the Planning Board finds that such buildings are compatible with the neighborhood and consistent with the intent of the applicable master plan.

This property is mapped at the maximum height that would be allowed under the Overlay zone, subject to Planning Board approval.

Custom BTHDA-10: EOF-1.5 H-60

The height map in the Bethesda CBD Sector Plan (pg. 39) limits the height to 60'.

Custom BTHDA-13: EOF-1.5 H-45

The height map in the Bethesda CBD Sector Plan (pg. 39) limits the height to 45'.

Custom BTHDA-14: EOF-1.5 H-50

The height map in the Bethesda CBD Sector Plan (pg. 39) limits the height to 50'.

Custom GRMTC-29: EOF-1.5 H-60

This property, which would have a 75' maximum height based on the standard conversion, is given a lower height based on the Germantown Employment Area Sector Plan. The plan (pg. 75) recommends, "stepping down in height to 50 to 60 feet along the eastern edge of the district to be compatible with existing residential neighbors." This lot is given the more permissive height of 60' and the plan will guide the appropriate step down in height during the development review process.

Custom NBETH-01: EOF-0.5 H-60

The North Bethesda- Garrett Park Master Plan (pg. 106) recommends "confirming the existing O-M zoning with a development cap of 0.5 FAR over the entire site."

POTMC-12: CRT- 1.25 C-0.5 R-0.75 H-100 T

This lot was part of the adjacent site (Park Potomac) approved under the optional method for the I-3 zone. The approvals for Park Potomac allow for up to 0.39 FAR of non-residential development and up to 600 units of residential (Site Plans 820040150 & 82004015A, 82004015B). Because this lot was approved as part of the large mixed-use development, it converts to the same zone as the rest of Park Potomac to maintain a consistent zoning pattern across the entire development.

TAKOM-13: CRT-1.5 C-1.5 R-0.5 H-50

Planning Staff in the City of Takoma Park requested that the O-M properties adjacent to C-1 and C-2 in Takoma Park translate to CRT instead of EOF for a more consistent zoning pattern in the City. The subject O-M properties fall under the Takoma Park/ East Silver Spring Commercial Revitalization Overlay zone, and the translation of these properties to CRT furthers the intent of the Overlay zone. The height of the translation is also modified by the Overlay zone:

...building height is limited to 30 feet. However, the Board may allow a building height: (i) up to 42 feet for commercial development, and (ii) up to 50 feet to accommodate residential development if the Planning Board finds that such buildings are compatible with the neighborhood and consistent with the intent of the applicable master plan.

This property is mapped at the maximum height that would be allowed under the Overlay zone, subject to Planning Board approval.

TAKOM-14: CRT-1.5 C-1.5 R-0.5 H-50

Planning Staff in the City of Takoma Park requested that the O-M properties adjacent to C-1 and C-2 in Takoma Park translate to CRT instead of EOF for a more consistent zoning pattern in the City. The subject O-M properties fall under the Takoma Park/ East Silver Spring Commercial Revitalization Overlay zone, and the translation of these properties to CRT furthers the intent of the Overlay zone. The height of the translation is also modified by the Overlay zone:

...building height is limited to 30 feet. However, the Board may allow a building height: (i) up to 42 feet for commercial development, and (ii) up to 50 feet to accommodate residential development if the Planning Board finds that such buildings are compatible with the neighborhood and consistent with the intent of the applicable master plan.

This property is mapped at the maximum height that would be allowed under the Overlay zone, subject to Planning Board approval.

TAKOM-15: CRT-1.5 C-1.5 R-0.5 H-50

Planning Staff in the City of Takoma Park requested that the O-M properties adjacent to C-1 and C-2 in Takoma Park translate to CRT instead of EOF for a more consistent zoning pattern in the City. The subject O-M properties fall under the Takoma Park/ East Silver Spring Commercial Revitalization Overlay zone, and the translation of these properties to CRT furthers the intent of the Overlay zone. The height of the translation is also modified by the Overlay zone:

...building height is limited to 30 feet. However, the Board may allow a building height: (i) up to 42 feet for commercial development, and (ii) up to 50 feet to accommodate residential development if the Planning Board finds that such buildings are compatible with the neighborhood and consistent with the intent of the applicable master plan.

This property is mapped at the maximum height that would be allowed under the Overlay zone, subject to Planning Board approval.

C-O (Commercial, office building)

Default: EOF- 3.0 H-100

The current zoning code specifies a maximum density of 3.0 FAR and a maximum height of 97' provided "the adopted master plan does not indicate that additional height over 3 stories or 42 feet is unsuitable for the applicable site."

Custom ASPEN-02: EOF-3.0 H-60

The Aspen Hill Master Plan (pg. 40-41) limits the height of the zone as follows, "no structure, excluding building mechanics, should be higher than two stories above the existing structure." The existing structure is 3 stories, approximately 40', so 2 stories above the existing structure would be 60'.

Custom BTHDA-09: EOF-1.5 H-60

The density allowed on this property is based on a recommendation in the Bethesda CBD Master Plan (pg. 116) that, "office uses at East-West Highway and Pearl Street (north-east) would

continue, but a density limit of 1.5 FAR is recommended on properties in the current C-O zone.” The height map in the master plan (pg. 39) limits the height on this property to 60’.

Custom BTHDA-11: EOF- 1.5 H-100

The Bethesda CBD Plan (pg. 116) limits the density as follows: “The southeast corner of Pearl Street and Montgomery Avenue is occupied by the three-story Potomac Valley Bank and its parking lot directly to the east. The bank’s C-O zoning should be extended to the parking lot, which is zoned R-60, with a density limit of 1.5 FAR.”

Custom BTHDA-12: EOF-1.5 H-50

The Bethesda CBD Plan (pg. 116) limits the density as follows: “Office uses at East-West Highway and Pearl Street (north-east) would continue, but a density limit of 1.5 FAR is recommended on properties in the current C-O zone.” The height map in the master plan (pg. 39) limits the height on these properties to 50’.

Custom BTHDA-15B: EOF- 3.0 H-35

The height map in the Bethesda CBD Plan (pg. 39) limits the height to 35’.

Custom WESTB-01: EOF- 1.5 H-45

The table in the Westbard Master Plan (pg. 65) limits the density to 1.5 FAR and limits the height to 3 stories or 42’.

C-P (Commercial, office park) floating zone

The current zoning code does not specify a maximum density for projects in the C-P zone, but the maximum height is determined by the language in the paragraph below.

No building or structure shall exceed a height of 50 feet, except as follows:

- (1) The height may be increased by one foot for each foot by which the building setback exceeds the minimum setback required in the adjoining zone.*
- (2) There shall be no height limit for a building located more than 300 feet from any property line.*
- (3) Additional floors shall be permitted if the following requirements are met:*
 - (i) For each such floor a floor is provided on which at least 60 percent of the area is used for automobile parking.*
 - (ii) Not more than 3 such additional floors shall be permitted.*
 - (iii) The average height of such additional floors shall not exceed 11 feet.*

Since the existing zoning code does not specify a maximum density for the zone, staff looked to the development approvals and the relevant master plan for guidance on creating the CR zone formula. The development plan (E-643) did not include information about height and density, so staff used site plan approvals and the North Bethesda/Garrett Park Master Plan. The land in the C-P zone consists of 3 different lots, each with existing buildings. The Democracy Center property is built at a density of 1.07 FAR and 14 stories (Site Plan 819810300.) The Rockledge Center property is built at 1.01 FAR and 10 stories (Site Plan 819840330.) The Martin Marietta property is built to 0.42 FAR and 94’ (81974005J.) The master plan (pg. 105) also includes the following language about the Martin Marietta property: “...the height/setback/coverage requirements could result in an FAR of as much as 1.25...”

To accommodate the existing buildings on the Rockledge Center and Democracy Center properties, and the master plan recognized development potential on the Martin Marietta property, the C-P zone will translate to: **EOF- 1.25 H-150**

C-1

Default:

Abuts RLD (R-200, RE-1, RE-2, RE-2C) or lower density zone, property is greater than 5 acres or contiguous with 5 or more acres- NR-1.0 H-45

Abutting zones have a 50' height limit. Height in the C-1 zone can be up to 45' on one side of a building as long as the average building height is no greater than 30'. If built to 50% coverage with 2 stories, density would equal approximately 1.0 FAR. These properties are most-likely to remain auto-oriented due to the density of surrounding area or the size/scale of development.

Abuts RMD (R-90, R-60, R-40) - CRT-0.5 C-0.5 R-0.25 H-35

Abutting zones have a 35' height limit. If built to 30% coverage with 2 stories density would equal approximately 0.6 FAR. This has been rounded down to 0.5 FAR.

Confronts RMD- CRT-0.75 C-0.5 R-0.25 H-45

Abutting multi-family or any non-residential zone, but confronting RMD, height in the abutting zone would be at least 45'. If built to 40% coverage with 2 stories, density would equal approximately 0.8 FAR. This has been rounded down to 0.75 FAR.

Otherwise- CRT-1.0 C-0.75 R-0.5 H-45

Abutting and confronting multi-family or any non-residential zone, height in the abutting zone would be at least 45'. If built to 50% coverage with 2 stories, density would be equal to approximately 1.0 FAR.

Custom CLRKG-04: NR-1.0 H-30

Historic district. The Clarksburg master plan recommends 2-story height limit on pages 48-49. Total FAR would need to be modified if default changes.

Custom DAMSC-01: CRN-0.25 C-0.25 R-0.0 H-35

Overlay limits commercial uses to 0.2 FAR. Height limited to 35'.

Custom POTMC-01: CRN-0.25 C-0.25 R-0.0 H-35

Overlay limits commercial uses to 0.2 FAR. Height limited to 35'.

Custom POTMC-06: NR-1.0 H-35

The Potomac master plan limits height to 35' for the C-1 properties around the intersection of Fall Rd. and River Rd. (Pages 63-67 in the Potomac master plan) Total FAR would need to be modified if default changes.

Custom SANDY-04: CRT-1.0 C-0.75 R-0.5 H-35

The Sandy Spring/Aston Rural Village overlay limits building height to 30'. Under the CRT zone, the minimum mapped height is 35'. Max commercial density under the overlay is 0.75 FAR. Total and residential FAR would need to be modified if the default changes.

Custom TAKOM-02: CRT-0.5 C-0.5 R-0.25 H-50

The Takoma Park/East Silver Spring Revitalization overlay limits height to 50' with Planning Board approval. Total and commercial FAR would need to be modified if the default changes.

Custom TAKOM-03: CRT-0.75 C-0.5 R-0.25 H-50

The Takoma Park/East Silver Spring Revitalization overlay limits height to 50' with Planning Board approval. Commercial FAR would need to be modified if the default changes.

Custom TAKOM-04: CRT-1.0 C-0.75 R-0.5 H-50

The Takoma Park/East Silver Spring Revitalization overlay limits height to 50' with Planning Board approval. Total and residential FAR would need to be modified if the default changes.

C-2

Default:

Abuts RLD or lower density residential zone- GR-1.5 H-45

Density allowed to 1.5 FAR. Height allowed to 45'.

Abuts RMD- CRT-1.5 C-1.5 R-0.75 H-45

Density allowed to 1.5 FAR. Height allowed to 45'.

Confronts RMD- CRT-2.0 C-1.5 R-0.75 H-45

Density allowed to 1.5 FAR Commercial. Additional density for residential development. Height allowed to 45'.

Abuts/Confronts RT or more intense & <300' from SFD CRT-2.25 C-1.5 R-0.75 H-45

Density allowed to 1.5 FAR Commercial. Additional density for residential development.

Abuts/Confronts RT or more intense & >300' from SFD CRT-2.25 C-1.5 R-0.75 H-75

Density allowed to 1.5 FAR Commercial. Additional density for Residential development. Height allowed to 75' for residential development if property is greater than 300' from a single-family residential zone.

The current C-2 zone is complicated. Distinction regarding walkability/auto dominated areas used to convert to C-2 GR versus CRT. C-2 has a base FAR of 1.5, where 2.5 FAR is allowed for mixed-use development that provides at least 60% of the density as residential. In addition, height is allowed to increase to 75' for mixed-use development more than 300' from single-family houses.

CUSTOM BTHDA-18: CRT-1.5 C-1.5 R-0.75 H-35

The height map on pg. 39 of the master plan calls for a maximum height of 35'. The remainder of the conversion is a result of the default conversion for abutting RMD. Residential FAR would need to be modified if default changes.

CUSTOM BTHDA-33: CRT-2.0 C-1.5 R-0.75 H-35

The height map on pg. 39 of the master plan calls for a maximum height of 35' on this parcel. The remainder of the conversion is a result of the default conversion for confronting RMD. Total and residential FAR would need to be modified if default changes.

CUSTOM BTHDA-34: CRT-1.5 C-1.5 R-0.75 H-35

The height map on pg. 39 of the master plan calls for a maximum height of 35' on this parcel. The remainder of the conversion is a result of the default conversion for abutting RMD. Residential FAR would need to be modified if default changes.

CUSTOM BTHDA-36: CRT-0.5 C-0.5 R-0.25 H-45

The height map on pg. 39 of the master plan calls for a maximum height of 42'. Further, the current Arlington Road Overlay limits the FAR to a maximum of 0.5. The Overlay zone also states that the Planning Board must find that the site plan does not conflict with the recommendations in the Bethesda CBD Sector Plan, which calls for the 42' height.

CUSTOM BURTN-01: CRT-1.5 C-1.0 R-1.25 H-70

The master plan (pg. 42) says to rezone former parcel P645, which is now the northeast 0.71 acre portion of the "Burtonsville Shopping Center" property (Parcel B/N703), from RC to C-2 zoning with a recommendation to change to CRT-1.5 C-1.0 R-1.25 H-70 when the Zoning Ordinance Rewrite is adopted.

CUSTOM GRMTC-27: CRT-2.25 C-1.5 R-0.75 H-60

The master plan (pg. 75) says "building heights should not exceed 60 feet along MD 355, stepping down in height to 50 to 60 feet along the eastern edge of the district to be compatible with existing residential neighbors. The remainder of the conversion is a result of the default conversion for Abuts/Confronts RT or more intense & >300' from SFD.

CUSTOM SANDY-01: CRT-1.5 C-0.75 R-0.75 H-35

For lots in a Commercial/Residential or Employment zone, the Sandy Spring/Ashton Rural Village Overlay limits height to 24 feet, except that the Planning Board may allow additional height up to 30 feet in the site plan approval process, if the Planning Board finds that the additional height is compatible with the abutting uses and substantially conforms with the intent of the master plan. The lowest height allowed in CRT is 35'. The height is still capped by the text of the Overlay. The maximum density for commercial uses is limited to 0.75 FAR in the Overlay zone. The total FAR and R FAR are a result of the default conversion for abutting RMD. Residential FAR would need to be modified if default changes.

CUSTOM TAKOM-01: CRT-2.0 C-1.5 R-0.75 H-50

The Takoma Park/East Silver Spring Commercial Revitalization Overlay allows a maximum height of 50' if approved by the Planning Board. The remainder of the conversion is a result of the default conversion for confronting RMD. Total and residential FAR would need to be modified if default changes.

CUSTOM TAKOM-05: CRT-2.25 C-1.5 R-0.75 H-50

The Takoma Park/East Silver Spring Commercial Revitalization Overlay allows a maximum height of 50' if approved by the Planning Board. The remainder of the conversion is a result of the default conversion for Abuts/Confronts RT or more intense.

CUSTOM TAKOM-07: CRT-1.5 C-1.5 R-0.75 H-50

The Takoma Park/East Silver Spring Commercial Revitalization Overlay allows a maximum height of 50' if approved by the Planning Board. The remainder of the conversion is a result of the default conversion for abutting RMD. Residential FAR would need to be modified if default changes.

CUSTOM TAKOM-08: CRT-2.0 C-1.5 R-0.75 H-50

The Takoma Park/East Silver Spring Commercial Revitalization Overlay allows a maximum height of 50' if approved by the Planning Board. The remainder of the conversion is a result of the default conversion for confronting RMD. Total and residential FAR would need to be modified if default changes.

CUSTOM TAKOM-09: CRT-2.0 C-1.5 R-0.75 H-50

The Takoma Park/East Silver Spring Commercial Revitalization Overlay allows a maximum height of 50' if approved by the Planning Board. The remainder of the conversion is a result of the default conversion for confronting RMD. Total and residential FAR would need to be modified if default changes.

CUSTOM TAKOM-10: CRT-2.25 C-1.5 R-0.75 H-50

The Takoma Park/East Silver Spring Commercial Revitalization Overlay allows a maximum height of 50' if approved by the Planning Board. The remainder of the conversion is a result of the default conversion for Abuts/Confronts RT or more intense.

CUSTOM TAKOM-11: CRT-2.25 C-1.5 R-0.75 H-50

The Takoma Park/East Silver Spring Commercial Revitalization Overlay allows a maximum height of 50' if approved by the Planning Board. The remainder of the conversion is a result of the default conversion for Abuts/Confronts RT or more intense.

CUSTOM TAKOM-12: CRT-2.25 C-1.5 R-0.75 H-50

The Takoma Park/East Silver Spring Commercial Revitalization Overlay allows a maximum height of 50' if approved by the Planning Board. The remainder of the conversion is a result of the default conversion for Abuts/Confronts RT or more intense.

CUSTOM POTMC-11: CRT-2.5 C-1.5 R-2.0 H-75

This conversion is the result of the property owner requesting that staff match the site's overall and residential density to its development approval under site plan 820090140. The site plan notes that the maximum total FAR is 2.36 and the maximum commercial FAR is 0.45, leaving 1.91 FAR for residential density. The site plan also states that the maximum building height is 75'. The commercial density and height in the conversion are a result of the default conversion for Abuts/Confronts RT or more intense & >300' from SFD.

CUSTOM CLRKG-02: GR-1.5 H-30

The category and density in the conversion are a result of the default Abuts RLD or lower density residential zone. For height, the master plan (pg. 48-49) states that the "area between existing MD 355 and Relocated MD 355 to the west is identified as a buffer zone, appropriate only for single-family detached housing with a maximum height of 2 stories....On the east side of the historic district, all development 400' east of existing MD 355 and/or on land which is within the historic district should be single-family detached structures which are no higher than 2 stories.

CUSTOM WHEAT-01: GR-1.5 H-45

This is the site of the Wheaton Plaza shopping mall.

CUSTOM POTMC-08: GR-1.5 H-45

This is the site of the Montgomery Mall.

C-3

Default: None

The C-3 zone allows building heights up to 42', except an arena or stadium, which can have a higher height as long as it is set back from the nearest lot line one foot for each additional foot of height over 42'. Where additional height is recommended as appropriate in the applicable master or sector plan, the maximum building height for an auto sales and service mall is 7 stories or 84'. There is no maximum FAR in the C-3 zone.

If Auto Sales and recommended for additional height in master plan: GR-1.5 H-85

The Auto Park in Fairland is the only C-3 property that is an auto sales use with a recommendation for additional height in the master plan. Specifically, the master plan (pg. 67) says that "Consolidation or sharing of parking possibly structured parking (with a building height greater than 42' if necessary) should be considered to meet parking needs." The 1.5 FAR is sufficient to accommodate existing development.

Otherwise: GR-1.5 H-45

In general, the maximum height in the C-3 zone is 42'. The 1.5 FAR is sufficient to accommodate existing development.

C-4

If less than 2 acres in size or master plan recommends lower intensity: CRT-0.25 C-0.25 R-0.25 H-35

The C-4 zone typically allows a maximum building height of 30' and a maximum FAR (including cellar space not used for storage) of 0.25.

If 2 acres or greater in size and master plan doesn't recommend against greater density: CRT-0.75 C-0.75 R-0.5 H-40

There are special regulations for development above 0.25 FAR in the C-4 zone. The special regulations allow a maximum building height of 40' and a maximum FAR of 0.75 as long as the "master plan does not indicate that higher intensity commercial development above 0.25 FAR would be unsuitable for the applicable site...." To achieve this higher density and height, the lot must be a minimum of 2 acres in size.

Within ½ mile of metro and 2 acres or greater in size: CR-1.5 C-1.0 R-1.0 H-75

There are special regulations for development above 0.25 FAR in the C-4 zone. The special regulations allow a maximum building height of 75' and a maximum FAR of 1.5 for a mixed use project within ½ a mile of metro that includes a large retail use designed for a single retailer (see Sec. C-4.379) To achieve this higher density and height, the lot must be a minimum of 2 acres in size. In addition, these C-4 properties were converted to CR instead of CRT due to proximity to metro.

Custom UPROK-01: CRT-0.25 C-0.25 R-0.25 H-35

This property is in the Upper Rock Creek Overlay, which limits impervious surface to 8%, and there's no recommendation for sewer. Therefore, it is not appropriate for the additional density or height provided for under the special regulations of the C-4 zone.

C-6

Default: GR-0.5 H-100

The maximum FAR, including cellar space not used for storage, is 0.5. The maximum FAR for buildings containing principally retail commercial uses is 0.25 FAR. The C-6 zone allows a maximum building height of 40', excluding parapets, except that buildings containing principally office uses are allowed a maximum building height of 100'.

There is currently no land zoned C-6.

H-M (Hotel-motel) floating zone

Default: CR- 1.0 C-1.0 R-0.5 H-160

The current zoning code specifies a maximum density of 1.0 FAR and a maximum height of 15 stories (160') in the H-M zone. In the translation, 0.5 FAR of residential uses are allowed. This is similar to the provision in the commercial zones to allow 30% residential.

RMX-1

Default: CRT-2.0 C-0.5 R-1.5 H-65 T

The current code specifies a maximum commercial density of 0.35 FAR and a maximum residential density of 40 du/ac (1.32 FAR, assuming an average unit size of 1437.5 sf) in the RMX-1 zone. The zoning code does not specify a maximum height for the RMX-1 zone; staff selected a maximum height of 65' based on the tallest possible multi-unit structure built with wood frame construction – the type of structure typically built under this density.

Custom GRMTC-23: CRT- 1.5 C-0.5 R-1.0 H-90 T

The Germantown Town Center Master Plan (pg 58) limits the residential density to 25 du/ac (0.83 FAR, assuming an average unit size of 1437.5 sf) and allows a maximum building height of 90'.

RMX-1/TDR

Default: CRT-0.75 C-0.5 R-0.25 H-65 T

The current code specifies a maximum commercial density of 0.35 FAR and a maximum residential density, without the purchase of TDRs, equivalent to the density of the R-200 zone. The zoning code does not specify a maximum height for the RMX-1/TDR zone; staff selected a maximum height of 65' based on the tallest possible multi-unit structure built with wood frame construction.

TDR Overlay zone:

The maximum residential density allowed with the purchase of TDRs is 40 du/ac.

Custom POTMC-07: CRT-0.5 C-0.25 R-0.25 H-60 T

The Potomac Subregion Master Plan (pg 56-7) recommends residential development for this site, so the commercial density is decreased to the lowest amount allowed under the CRT zone (0.25 FAR). The master plan (pg 62) limits the maximum height to 5 stories (60').

TDR Overlay zone:

The master plan limits residential density to 97 total units. The TDR Overlay zone has a designation of 0.47, allowing the residential density to increase to 0.47 FAR and the total density to increase to 0.72 FAR with the purchase of TDRs.

Custom CLRKG-05: CRT-0.5 C-0.25 R-0.25 H-65 T

This site was approved in conjunction with an adjacent site in the MXPD zone (CLRKG-06), and this conversion takes the approvals for the adjacent site into account. The commercial density is limited to 0.25, the lowest amount allowed in CRT, because CLRKG-06 is approved for more than the 2,300,000 sf of commercial development recommended for this neighborhood in the Clarksburg master plan (p67).

TDR Overlay zone:

The TDR Overlay zone was calculated based on a binding element in the development plan (G-806) that requires the purchase of 635 TDRs in the Cabin Branch neighborhood. The TDR Overlay zone has a designation of 0.39, which allows the residential density to increase to 0.39 FAR and the total density to increase to 0.64 FAR with the purchase of TDRs.

RMX-2

Default: CRT-2.0 C-0.5 R-1.5 H-65 T

The current code specifies a commercial density of 0.5 FAR, and maximum residential density of 40 du/ac (1.32 FAR, assuming an average unit size of 1437.5 sf). The zoning code does not specify a maximum height for the RMX-2 zone; staff selected a maximum height of 65' based on the tallest possible multi-unit structure built with wood frame construction.

Custom CLRKG-01: CRT-0.75 C-0.25 R-0.5 H-65 T

The Clarksburg Master Plan (p 46) recommends a maximum of 300,000 sf of commercial development in the 635 acre Town Center District (.01 FAR). The master plan also limits the residential density to 7 du/ acre (0.39 FAR, assuming an average unit size of 2400 sf).

Custom GRMTC-18: CRT- 1.0 C-0.25 R-0.75 H-65 T (TC-33)

The Germantown Master Plan (p. 53) limits the commercial density to 200,000 sf (0.25 FAR) and residential density to 300 units (0.62 FAR, assuming an average unit size of 2400 sf) on the Martens property.

RMX-2C

Default: CRT-2.0 C-0.5 R-1.5 H-65 T

The current zoning code specifies a maximum commercial density of 0.5 FAR and a maximum residential density of 40 du/ac (1.32 FAR assuming a unit size of 1437.5 sf). The zoning code does not specify a maximum height for the RMX-2C zone; staff selected a maximum height of 65' based on the tallest possible multi-unit structure built with wood frame construction.

Custom GRMTC-17: CRT-0.5 C-0.5 R-0.5 H-65 T

The Germantown Master Plan (p49) recommends an average density of 0.5 FAR, so the residential density and total density were decreased accordingly.

Custom GRMTC-16: CRT- 0.75 C-0.5 R-0.5 H-100 T

The Germantown Master Plan (p 49) recommends an average density of 0.6 FAR of mixed uses for the Sugarloaf Shopping Center. The residential density is decreased to 0.5 FAR to require a mix of uses to achieve maximum density. The master plan (p51) allows properties fronting on MD 118 between Wisteria Drive and Aircraft Drive to have building heights up to 100'.

Custom POTMC-04: CRT-0.75 C-0.5 R-0.25 H-35 T

The Potomac Subregion Master Plan (p46) limits commercial development at Cabin John Mall to 300,000 sf (0.5 FAR) and limits residential development to 135 dwelling units (0.22 FAR, assuming 95 units at 1437.5sf and 40 units at 2400sf). The master plan (p48) limits the height to 35'.

Custom GRMTC-19: CRT-1.0 C-0.5 R-0.75 H-65 T

The Germantown Master Plan (p 53) allows up to 220,000 sf of commercial uses (0.5 FAR) and 100 dwelling units (0.54 FAR, assuming an average unit size of 2400 sf) on the Waters Road Triangle property.

RMX-2C/TDR

Default: CRT-1.0 C-0.5 R-0.5 H-65 T

The current zoning code specifies a maximum commercial density of 0.5 FAR and a maximum residential density, without the purchase of TDRs, of 14.50 units/ acre (0.49 FAR assuming a 1437.5 sf average unit size). The zoning code does not specify a maximum height for the RMX-2C/TDR zone; staff selected a maximum height of 65' based on the tallest possible multi-unit structure built with wood frame construction.

TDR Overlay zone:

The zoning code allows residential density to increase to 40 du/acre (1.32 FAR) with the purchase of TDRs.

Custom SDYGR-04: CRT-1.0 C-0.5 R-0.5 H-65 T

The Shady Grove Master Plan (p52) limits commercial uses on this site to 0.3 FAR.

TDR Overlay zone:

The master plan limits residential density, with the purchase of TDRs, to 420 total dwelling units. The TDR Overlay zone has a designation of 0.81, which allows the residential density to increase to 0.81 FAR and the total density to increase to 1.31 FAR with the purchase of TDRs.

Custom GRMTC-28: CRT-1.0 C-0.5 R-0.5 H-60 T

The Germantown Master Plan (p75) limits commercial uses on this site to 0.3 FAR and limits the height to 60'.

TDR Overlay zone:

The master plan limits residential density, with the purchase of TDRs, to 22 units/acre. The TDR Overlay zone has a designation of 0.91, which allows residential density to increase to 0.91 FAR and total density to increase to 1.41 FAR with the purchase of TDRs.

RMX-3/TDR

Default: CRT-0.75 C-0.5 R-0.25 H-65 T

The zoning code specifies a maximum commercial density of 0.5 FAR and a maximum residential density, without the purchase of TDRs, to 2.18 du/ac (0.25 FAR, assuming a unit size of 4000 sf). The zoning code does not specify a maximum height for the RMX-3/TDR zone; staff selected a maximum height of 65' based on the tallest possible multi-unit structure built with wood frame construction.

TDR Overlay zone:

The zoning code allows a maximum residential density of 40 units/ac with the purchase of TDRs. The TDR Overlay designation is 2.33, which indicates that residential density may increase to 2.33 and total density may increase to 2.83 with the purchase of TDRs.

RMX-3C

Default: CRT-2.0 C-0.5 R-1.5 H-65 T

The zoning code specifies a maximum commercial density of 0.5 FAR and a maximum residential density of 40 du/ac (1.5 FAR, assuming a unit size of 1437.5 sf). The zoning code does not specify a maximum height for the RMX-3C zone; staff selected a maximum height of 65' based on the tallest possible multi-unit structure built with wood frame construction.

Custom WFLNT-01: CR-2.0 C-0.5 R-1.5 H-200 T

The Montrose Crossing Project was approved with a height of 200' in Site Plan 820040130. The zone group is CR, instead of CRT, because buildings over 150' are not allowed in the CRT zone, while they are allowed in the CR zone.

MXTC (Mixed-Use Town Center)

Default: CRT-2.0 C-1.0 R-1.0 H-70 T

The current zoning code specifies a maximum commercial density of 1.0 FAR and a maximum residential density of 20 du/acre (0.88 FAR, assuming an average unit size of 1919 sf) in the MXTC zone. The unit size used for the residential density calculation assumes a mix of apartments (1437.5 sf) and townhouses (2400 sf). The zoning code specifies a maximum height of 70' in the MXTC zone.

Custom DAMSC-03: CRT-1.5 C-0.5 R-1.0 H-55 T

A chart in the Damascus Master Plan (pg. 97) limits the commercial, industrial, or mixed-use density in the outer area of the town center to 0.5 FAR and limits the height to 55'.

Custom DAMSC-04: CRT- 1.75 C-1.0 R-0.75 H-55 T

A chart in the Damascus Master Plan (pg. 97) limits residential density in the inner core of the town center to 15 du/acre (0.66 FAR, assuming an average unit size of 1919sf.) The unit size assumes a mix of apartments (1437.5 sf) and townhouses (2400 sf), as recommended in the Damascus Master Plan (pg. 21). The master plan also limits the height to 55'.

MXTC/TDR

Default: CRT- 1.5 C-1.0 R-0.5 H-70 T

The current code specifies a maximum commercial density of 1.0 FAR and a maximum residential density, for properties that do not purchase TDRs, of 8 du/ acre (0.44 FAR, assuming a 2400 sf average unit size). The zoning code specifies a maximum height of 70'.

TDR Overlay Zone:

Residential density may be increased under the TDR Overlay zone to allow a maximum of 20 du/ acre.

Custom DAMSC-02 and DAMSC-05: CRT- 1.0 C-0.5 R-0.5 H-55 T

The Damascus Master Plan (p97) limits the commercial density in the outer area of the town center to 0.5 FAR and limits the maximum height to 55'.

TDR Overlay Zone:

The TDR Overlay zone has a designation of 1.16, allowing a residential density of 1.16 FAR and a total density of up to 1.66 FAR with the purchase of TDRs. The TDR overlay zone allows a slightly higher residential density than would be otherwise allowed in this zone to help preserve the TDR program.

TOMX-2

Default: None

The TOMX-2 zone is a mixed-use zone with a total FAR of 2.0 and no height limit under optional method development. Every TOMX-2 property has a master plan recommendation so there is no default, only custom conversions.

Custom SDYGR-09 (master plan property Metro West): CRT-1.5 C-0.5 R-1.25 H-100 T

The master plan (pg. 35) shows a density map with an FAR of 1.4 and 25-30 dwelling units/acre. There's also an asterisk, with a note that says "plan allows up to 30% maximum commercial FAR and requires a minimum of 70% residential FAR." The master plan (pg. 39) also says to allow "a maximum of 15 stories adjacent to Metro and stepping down to a four-story edge along Redland Road and MD 355." The Sector Plan does not give a specific height limit for this area, however, it calls for a step down from 15 stories at Metro to 4 stories at Route 355. As a result, staff is proposing a 100' limit here to match the step-down in height.

Custom SDYGR-10 (master plan property part of Metro West): CRT-0.75 C-0.75 R-0.25 H-50T

The master plan (pg. 35) shows a density map with a total FAR of 0.75 for this property and no residential. Further, pg. 41 says to allow "a maximum of 0.75 FAR of mixed-use commercial uses without residential development for 3 properties northwest of King Farm Boulevard." The master plan (pg. 39) also says to permit "a maximum of 15 stories adjacent to Metro and

stepping down to a four-story edge along Redland Road and MD 355.” However, Gaithersburg annexed a large portion of the property, and in context, the 50’ height is appropriate.

Custom SDYGR-11 (master plan property Metro South): CRT-1.5 C-0.5 R-1.25 H-90 T

The master plan (pg. 35) shows a density map with an FAR of 1.4 and 25-30 dwelling units/acre. There’s also an asterisk, with a note that says “plan allows up to 30% maximum commercial FAR and requires a minimum of 70% residential FAR.” The master plan (pg. 42) also says to “permit a maximum of 8 stories on interior blocks and 4 stories along Redland Road and MD 355.”

TOMX-2/TDR

Default: None

The TOMX-2/TDR zone is a mixed-use zone with a total optional method FAR of 1.6 without the purchase of TDRs and no height limit. With the purchase of TDRs, residential density may be increased by 20%. Additionally the maximum dwelling units per acre without TDRs is 40 units per acre. With the purchase of TDRs, the dwelling units per acre can be increased by a maximum of 20%. Every TOMX-2/TDR property has a master plan recommendation so there is no default, only custom conversions.

Custom SDYGR-05 (CSP Metro North): CRT-1.0 C-0.25 R-0.75 H-90 T

The master plan (pg. 44) says to “allow up to 615 base density units on Metro North-CSP that can be increased to 960 base density units if jointly developed with Casey 6 and Casey 7....permitting up to 40,000 SF if retail and 133,250 SF of office use.” Square footage allowed for non-residential uses works out to 0.09 FAR on this site. Residential FAR, using the base density of 615 ranges from 0.45 (assuming 1437.5 SF) to .75 (assuming 2400 SF). For height, the master plan (pg. 45) says to limit “building heights to 8 stories closest to the metro and stepping down to 4 stories along Crabb Brach Way for a compatible transition to existing single-family neighborhoods to the east.”

TDR Overlay Zone:

The TDR Overlay zone has a designation of 0.89, allowing a residential density of 0.89 FAR and total density up to 1.14 FAR with the purchase of TDRs.

Custom SDYGR-06 (CSP Jeremiah Park): CRT-0.75 C-0.25 R-0.5 H-60 T

The master plan (pg. 52) allows “435 base housing units on Jeremiah Park with a mix of single-family attached, live-work units, and multi-family units. Unit yield can be increased to achieve workforce housing, TDRs, and MPDU bonus density up to 700 units with bonus density...Achieving a mix of unit types with sufficient number of townhouses to offer housing choices but limited enough to achieve a series of community open spaces for adequate passive recreation. A minimum of 50% single-family attached housing shall be provided.” The density of 435 base housing units ranges from 0.26 FAR (assuming 1437.5 SF) to 0.43 (assuming 2400 SF). For height, the master plan (pg. 53) says to “limit townhouse building heights to 4 stories with multi-family units up to 5 stories. Maintain a 4 story building height along Crabbs Branch Way.”

TDR Overlay Zone:

The TDR Overlay zone has a designation of 0.56, allowing a residential density of 0.56 FAR and total density up to 0.81 FAR with the purchase of TDRs.

Custom SDYGR-07 (Metro North WMATA): CRT-1.0 C-0.25 R-0.75 H-70 T

The master plan (pg. 44) says to allow “a base density of 530 units in a mix of unit types and sizes with some single-family attached units, and up to 26,000 SF of non-residential uses located in front of the existing, 3-story parking garage. Housing density can increase with workforce housing, TDR, and MPDU bonus units up to 855 units maximum.” The master plan also says to “provide 20% TDRs on this property.” On this site, 26,000 SF of non-residential uses is a 0.014 FAR. The residential FAR ranges from 0.4 for multifamily (assuming 1437.5 SF) to 0.7 for townhouses (assuming 2400 SF). For height, the master plan (pg. 43) says to maintain “building heights at 6 stories or less to form a compatible transition to the existing single-family neighborhoods. Building heights along Redland Road should not exceed 4 stories.”

TDR Overlay Zone:

The TDR Overlay zone has a designation of 0.86, allowing a residential density of 0.86 FAR and total density up to 1.11 FAR with the purchase of TDRs.

Custom SDYGR-08 (master plan property Metro West with TDRs): CR-1.75 C-0.5 R-1.5 H-160 T

The density map in the master plan (pg. 35) shows this area at a maximum base density of 1.6 FAR with 30-40 dwelling units per acre, allowing up to 30% maximum commercial FAR and a minimum of 70% residential FAR. The master plan (pg. 39) also says to permit “a maximum of 15 stories adjacent to Metro and stepping down to a four-story edge along Redland Road and MD 355.” The CR zoning category is required because the CRT zone doesn’t allow heights up to 160’.

TDR Overlay Zone:

The TDR Overlay zone has a designation of 1.76, allowing a residential density of 1.76 FAR and a total density up to 2.01 FAR with the purchase of TDRs.

Custom SDYGR-12 (master plan property Metro South with TDRs): CRT-1.75 C-0.5 R-1.5 H-90 T

The density map in the master plan (pg. 35) shows this area at a maximum base density of 1.6 FAR with 30-40 dwelling units per acre, allowing up to 30% maximum commercial FAR and a minimum of 70% residential FAR. The master plan (pg. 42) also says to “Permit a maximum of 8 stories on interior blocks and 4 stories along Redland Road and MD 355.”

TDR Overlay Zone:

The TDR Overlay zone has a designation of 1.76, allowing a residential density of 1.76 FAR and a total density up to 2.01 FAR with the purchase of TDRs.

TMX-2

Default: CR-2.0 C-1.5 R-1.5 H-145 T

The TMX-2 zone is a mixed use zone, with a total allowed FAR of 2.0 and no height limit under optional method development. The master plans limit height in the TMX-2 zone, with the exception of one property where height is recommended for 143’. There is no specific requirement for commercial versus residential FAR. The default of C-1.5 and R-1.5 requires mixed-use to achieve the full FAR.

Custom GRMTC-01 (master plan property NE-1): CR-1.0 C-0.75 R-0.5 H-145 T

The master plan (pg. 63) says to develop this area “at an average density of 1.0 FAR and a mix of uses with a minimum of 60 percent employment and a maximum of 40 percent residential.” The master plan (pg. 64) also says “For the west side of I-270, permit building heights of 143 feet, clustered at the transit station and along I-270.”

Custom GRMTC-02 (master plan property NE-2): CR-0.75 C-0.5 R-0.5 H-145 T

The master plan (pg. 63) says to “allow up to 1.5 million square feet of employment uses, a hotel, and up to 110,000 square feet of retail space. Residential development may include a mix of high-rise and low-rise residential units, provided the total density for the site does not exceed 0.7 FAR.” (The square footage allowed for the employment and retail space is equivalent to about .38 FAR.) The master plan (pg. 64) also says “for the west side of I-270, permit building heights of 143 feet, clustered at the transit station and along I-270...”

Custom GRMTC-04 (master plan property NE-8): CR-1.0 C-1.0 R-0.25 H-125 T

The master plan (pg. 64) says to develop this property “at an average density of 1.0 FAR with a mix of research and development, employment, technology, street level retail, restaurants, and new housing. Orient up to 225 new multifamily housing units to the existing residential areas. Residential uses are not to exceed 20% of total development on this site.... For the east side of I-270, permit buildings up to 125 feet along I-270.”

Custom GRMTC-07 (master plan property Cloverleaf District): CR-1.0 C-0.75 R-0.5 H-145 T

The master plan (pg. 60-61) says to “concentrate mixed-use development at the transit station at an average density of 1.0 FAR, stepping down toward existing residential communities along Crystal Rock Drive.... Allow a ratio of land uses that are 50 to 60 percent commercial uses and 40 to 50 percent residential uses for each property to create a mixed-use neighborhood....Allow building height of 143 feet (12 stories) clustered around the transit station to define the center, transitioning to lower building heights along Crystal Rock Drive. Permit up to 125 feet along I-270 with a variety of heights ranging from 6 to 10 stories.” Zoning to the lower heights would require split zoning properties, so the entire area was mapped to the more permissive 145’, with the step down being assured through the finding of master plan conformance during site plan.

Custom GRMTC-08 (master plan property TC-9): CR-2.0 C-0.5 R-1.5 H-180 T

The master plan (pg. 47) allows for a maximum total FAR of 2.0 with a minimum of 70% residential uses. It also calls for a maximum height of 180’ on this property (pg. 51).

Custom GRMTC-09 (master plan property TC-12): CR-1.5 C-1.0 R-1.0 H-100 T

The master plan (pg. 47) says that the TC-12 property “should be rezoned from TS to TMX-2 with an FAR of 1.5.” The master plan (pg. 51) also says “The Trevion property and properties fronting MD 118 between Wisteria Drive and Aircraft Drive should have building heights up to 100 feet.”

Custom GRMTC-10A (master plan property TC-11): CR-1.0 C-0.75 R-0.75 H-60T

The master plan (pg. 47) says the TC-11 property “should be rezoned from TS to TMX-2 with an FAR of 1.0.” Also, on pg. 51, the master plan says “Along Century Boulevard, limit building heights to 60 feet to maintain sufficient light and air along the Promenade.”

Custom GRMTC-10B (master plan property TC-24): CR-1.0 C-0.75 R-0.5 H-100 T

The master plan (pg. 48) says that “The Germantown Commons Shopping Center (TC-23) and Upcounty Government Center (TC-24) should be rezoned from the existing TS zoning to TMX-2 zoning with up to 1.0 FAR with a maximum of 40 percent residential uses.” The master plan (pg.

51) also says "The Trevion property and properties fronting MD 118 between Wisteria Drive and Aircraft Drive should have building heights up to 100 feet."

Custom GRMTC-10C (master plan property TC-20): CR-1.0 C-0.75 R-0.75 H-100 T

The master plan (pg. 48) says the TC-20 property "should be rezoned from C-3 and R-30 to TMX-2 with an FAR of 1.0 to allow the densities and uses indicated in the Plan." The master plan (pg. 51) also says "The Trevion property and properties fronting MD 118 between Wisteria Drive and Aircraft Drive should have building heights up to 100 feet."

Custom GRMTC-11A (master plan property TC-16): CR-0.5 C-0.5 R-0.25 H-60 T

The master plan (pg. 48) says that it "is the site of the library, the BlackRock Center for the Arts, and the Town Commons. Although no change in use is recommended for these properties, the zoning should be changed to TMX-2 (limited to 0.5 FAR) to provide a consistent zoning pattern." As the master plan stated that no change in use is recommended for the property, the residential FAR was limited to the lowest amount available under CR. The master plan (pg. 51) also says "Along Century Boulevard, limit building heights to 60 feet to maintain sufficient light and air along the promenade."

Custom GRMTC-11B (master plan property TC-10 & TC-15): CR-0.5 C-0.5 R-0.5 H-60 T

For the TC-10 property, the master plan (pg. 47) says "this property (as well as areas 15 and 18) should be rezoned from the TS to TMX-2 Zone with an FAR of 0.5." For the TC-15 property, the master plan (pg. 48) says it "is a stormwater management parcel and not likely to redevelop, but is recommended to be rezoned to the TMX-2 Zone with a 0.5 FAR to create a consistent zoning pattern." The recommendation for these properties doesn't say anything about residential versus non-residential uses, and because of the small FAR, it makes sense for both the C and the R FAR to match the total FAR.

Custom GRMTC-12A (master plan property TC-18): CR-1.0 C-0.75 R-0.75 H-60 T

The master plan (pg. 48) says that TC-18 is developed as single-family attached residences and is not likely to redevelop, but the master plan recommends rezoning the property to TMX-2 with an FAR of 1.0 to maintain a consistent zoning pattern south of Locbury Drive. There is no specific height recommendation for this property, but the Germantown Building Heights map in the master plan (pg. 22) implies that this is an "other areas and transitions – 60 feet."

Custom GRMTC-12B (master plan property TC-23): CR-1.0 C-0.75 R-0.5 H-60 T

The master plan (pg. 48) says that "The Germantown Commons Shopping Center (TC-23) and Upcounty Government Center (TC-24) should be rezoned from the existing TS zoning to TMX-2 zoning with up to 1.0 FAR with a maximum of 40 percent residential uses." There is no specific height recommendation for this property, but the Germantown Building Heights map in the master plan (pg. 22) implies that this is an "other areas and transitions – 60 feet."

Custom GRMTC-13 (master plan property TC-19): CR-1.5 C-1.0 R-1.0 H-60 T

The master plan (pg. 48) says to "Allow up to 1.5 FAR on the Safeway (TC-19) and EuroMotors (TC-17) properties between Century Boulevard and MD 118. Redevelopment should be a mix of commercial and residential uses with street level retail." The master plan (pg. 51) also says "Along Century Boulevard, limit building heights to 60 feet to maintain sufficient light and air along the promenade."

Custom GRMTC-14 (master plan property TC-17): CR-1.5 C-1.0 R-1.0 H-100 T

The master plan (pg. 48) says “This property should be rezoned from TS to TMX-2 with an average density of 1.5 FAR to allow the land uses and density indicated in the Plan.” The master plan (pg. 51) also says “properties fronting MD 118 between Wisteria Drive and Aircraft Drive should have building heights up to 100 feet.”

Custom GRMTC-15A (master plan property TC-30): CR-1.0 C-0.75 R-0.5 H-100 T

The master plan (pg. 49) says “The Trevion property (TC-30) should be rezoned from the existing C-O zoning to TMX-2 to allow for the mix of uses and densities indicated in the Plan. It should be developed at an average density of 1.0 FAR of mixed uses with an employment emphasis that achieves at least 65 percent office uses, a hotel and some service retail, and a maximum of 35 percent residential uses located along the Wisteria Drive end of the site.” The master plan (pg. 51) also says “The Trevion property and properties fronting MD 118 between Wisteria Drive and Aircraft Drive should have building heights up to 100 feet.”

Custom GRMTC-15B (master plan property TC-25): CR-1.0 C-0.75 R-0.75 H-100 T

The master plan (pg. 49) says “The Germantown Square Urban Park (TC-25) should be rezoned to TMX-2 with an average density of 1.0 FAR to provide a consistent zoning pattern and density with adjoining properties.” The master plan (pg. 51) also says “The Trevion property and properties fronting MD 118 between Wisteria Drive and Aircraft Drive should have building heights up to 100 feet.”

Custom GRMTC-15C (master plan property TC-29): CR-1.0 C-1.0 R-0.75 H-100 T

The master plan (pg. 49) says that this property is recommended “to be rezoned to TMX-2 to create a consistent zoning pattern with non-residential development limited to 1.0 FAR.” The master plan (pg. 51) also says “The Trevion property and properties fronting MD 118 between Wisteria Drive and Aircraft Drive should have building heights up to 100 feet.”

Custom GRMTC-20A (master plan property TC-37): CR-0.5 C-0.25 R-0.25 H-60 T

The master plan (pg. 54) says to “Redevelop properties south of MD 118 between the MARC station and Wisteria Drive (TC-37) with mixed uses up to 0.5 FAR.” The master plan (pg. 54) also says to “Allow building heights along MD 118 to gradually increase from 40 feet at the County’s commuter parking lot to 100 feet at Middlebrook Road. Building heights in the west end generally should not exceed 60 feet and should step down adjacent to existing residential communities.” This property is not at Middlebrook Road or the County’s commuter lot, so the 60’ height is appropriate.

Custom GRMTC-20B (master plan property TC-35, TC-38): CR-0.5 C-0.25 R-0.25 H-40 T

The master plan (pg. 53) says “The property should be rezoned from R-200 to TMX-2 at an average density of 0.35 FAR to allow for the mix of uses indicated in the Plan and to maintain compatibility with the nearby historic district.” The master plan (pg. 54) also says to “Allow building heights along MD 118 to gradually increase from 40 feet at the County’s commuter parking lot to 100 feet at Middlebrook Road. Building heights in the west end generally should not exceed 60 feet and should step down adjacent to existing residential communities.” These properties encompass the County’s commuter parking lot, so the 40’ height is appropriate.

Custom GRMTC-20C (master plan property TC-39): CR-0.75 C-0.25 R-0.5 H-60 T

The master plan (pg. 54) says this property, which is in the west end, “is suitable for multifamily and attached housing with the FAR limited to 0.5.” The master plan (pg. 54) also says to “Allow building heights along MD 118 to gradually increase from 40 feet at the County’s commuter

parking lot to 100 feet at Middlebrook Road. Building heights in the west end generally should not exceed 60 feet and should step down adjacent to existing residential communities.”

Custom GRMTC-21A (master plan property TC-40): CR-1.0 C-0.5 R-0.75 H-60 T

The master plan (pg. 54) says “Redevelop the Medical Office Park (TC-40) as mixed-use with a residential emphasis, up to 18 units per acre. The property should be rezoned from R-200 to TMX-2 to allow a mix of uses.” The master plan (pg. 54) also says to “Allow building heights along MD 118 to gradually increase from 40 feet at the County’s commuter parking lot to 100 feet at Middlebrook Road. Building heights in the west end generally should not exceed 60 feet and should step down adjacent to existing residential communities.” This property is in the west end.

Custom GRMTC-21B (master plan property TC-41): CR-1.0 C-0.25 R-1.0 H-60 T

The master plan recommends these properties for 18 units/acre, (1.0 FAR assuming a 2400 SF unit size). Specifically, the master plan (pg. 54) says “If the post office (TC-41) relocates, redevelop the site for residential uses at 18 units per acre. The property should be rezoned from C-T Zone to TMX-2 so the zoning will be consistent with that of the surrounding properties.” The master plan (pg. 54) also says to “Allow building heights along MD 118 to gradually increase from 40 feet at the County’s commuter parking lot to 100 feet at Middlebrook Road. Building heights in the west end generally should not exceed 60 feet and should step down adjacent to existing residential communities.” This property is in the west end.

Custom GRMTC-24 (master plan property SM-1): CR-1.0 C-0.75 R-0.5 H-145 T

The master plan (pg. 67) says “Concentrate mixed-use development at the transit station with an average density of 1.0 FAR on the Seneca Meadows property north of the Crystal Rock Tributary (SM-1). To ensure the area retains an employment profile, develop with a minimum of 70 percent employment uses that include limited street level retail and a maximum of 30 percent residential uses.” The master plan (pg. 68) also says to “Allow building heights up to 143 feet clustered at the transit station to create a defined center.”

Custom TWBRK-01 (master plan property Metro Core 3) CR-1.5 C-1.0 R-1.25 H-145 T

The master plan (pg. 33) says this area is good for moderate intensity mixed use and to “Rezone from O-M to TMX-2 with a 1.5 FAR cap, consistent with uses and densities proposed for adjacent sites in the City of Rockville. Limit development to 1.5 FAR with a requirement that at least 25% of any optional method development is residential.” The master plan (pg. 30) also says to “establish building heights, but no higher than those at Twinbrook Station, with 10 to 12 stories, or a maximum of 143 feet, near the Metro station, stepping down to approximately 60 feet, or four to five stories, next to the residential communities along Ardennes Avenue and Halpine Road.”

Custom TWBRK-02 (master plan property Technology Employment Area 4, excluding USP site & Technology Employment Area 5): CR-1.5 C-1.5 R-1.5 H-145 T

The master plan (pg. 38) says to “Rezone Fishers Place from I-1 to TMX-2, with a 1.5 FAR cap for all development. Rezone remaining acres from I-1 to TMX-2, with a 1.5 FAR cap for all development.” The master plan (pg. 34) also says for the entire Technology Employment Area to “locate the tallest buildings along Parklawn Drive and Fishers Lane with a maximum building height of 10 to 12 stories or 143 feet. Step buildings down from a maximum of 143 feet along Fishers Lane and Parklawn Drive to approximately 60 feet along the northern edge of the planning area to establish compatibility with existing garden apartments.”

Custom TWBRK-03 (master plan property Technology Employment Area 6 & 8): CR-2.0 C-1.5 R-2.0 H-145 T

For density on Employment Area 6, the master plan (pg. 40) says "Rezone from I-1 to TMX-2 with a 1.5 FAR cap on commercial development, with up to 2.0 FAR for residential development. For density on Employment Area 8, the master plan (pg. 41) says to "limit commercial development to 1.5 FAR and allow additional residential development up to 2.0 FAR." The master plan (pg. 34) says for the entire Technology Employment Area to "locate the tallest buildings along Parklawn Drive and Fishers Lane with a maximum building height of 10 to 12 stories or 143 feet. Step buildings down form a maximum of 143 feet along Fishers Lane and Parklawn Drive to approximately 60 feet along the northern edge of the planning area to establish compatibility with existing garden apartments."

Custom TWBRK-04 (master plan property USP site in Technology Employment Area 4): CR-2.0 C-2.0 R-1.5 H-145 T

The master plan (pg. 38) says to "Rezone the USP site from C-O to TMX-2, with a 1.85 FAR cap for commercial development reflecting the existing density of construction completed in 2007." The master plan (pg. 34) also says for the entire Technology Employment Area to "locate the tallest buildings along Parklawn Drive and Fishers Lane with a maximum building height of 10 to 12 stories or 143 feet. Step buildings down form a maximum of 143 feet along Fishers Lane and Parklawn Drive to approximately 60 feet along the northern edge of the planning area to establish compatibility with existing garden apartments."

Custom TWBRK-05 (master plan property Metro Core 2 Area): CR-2.0 C-1.5 R-2.0 H-145 T

The master plan (pg. 33) states that "The full 2.0 FAR is appropriate in this area, but any development above 1.5 must be applied to residential uses. The site could also redevelop completely with residential uses at 2.0 FAR, and provide MPDUs and workforce housing." The master plan (pg. 34) also says for the entire Technology Employment Area to "locate the tallest buildings along Parklawn Drive and Fishers Lane with a maximum building height of 10 to 12 stories or 143 feet. Step buildings down form a maximum of 143 feet along Fishers Lane and Parklawn Drive to approximately 60 feet along the northern edge of the planning area to establish compatibility with existing garden apartments."

Custom TWBRK-06: CR-1.75 C-1.75 R-1.5 H-145 T

Originally part of TWBRK-02, the property owner called and requested to be zoned to the FAR allowed under their site plan approval (82001025B). Per the PHED Committee's recommendation to match currently conforming approvals when requested, this site was given additional total and commercial FAR.

CBD 0.5

Default: CR 1.5 C1.0 R1.5 H60 T

Under the current code, the maximum total density is 1.5 FAR. Maximum commercial density is 1.0 FAR, and the maximum residential density is 100 du/acre. The maximum height is 60'. A maximum residential density of 100 du/acre is approximately 2.5 FAR (assuming an average unit size of a 1000sf). Residential density cannot exceed the total FAR, therefore the residential density is set equal to the maximum total FAR of 1.5.

Custom SLVSP-17: CR 1.5 C1.0 R1.5 H90 T

Properties where the currently conforming approved height or density is greater than the proposed zone can be mapped to accommodate the approval. The property denoted as Custom SLVSP-17 has an approved height of 90' under project plan 919980050.

CBD-R1

Default: CR 3.0 C0.75 R3.0 H145 T

Under the current code, the maximum total density is 3.0 FAR. Maximum commercial density is 0.6 FAR, in the conversion this density limit would round to 0.75. The maximum residential density is 125 du/acre, and the maximum height is 145'. A maximum residential density of 125 du/acre is approximately 3.0 FAR (assuming an average unit size of a 1000 sf).

Custom SLVSP-20: CR 3.0 C1.25 R3.0 H145 T

This conversion is based on a footnote for the CBD-R1 zone: "The FAR may be increased to 1.2 FAR by the Planning Board if the site will be owned and occupied by a nonprofit organization that provides needed child care and adult day care services in cooperation with the Montgomery County Department of Health and Human Services that is in effect on December 31, 1999." This property is the site of a nonprofit organization providing child and adult day care that entered into a partnership agreement with Montgomery County HHS as of December 31, 1999. (Staff Report for Site Plan 820020160, page 11).

CBD-R2

Default: CR 5.0 C1.0 R5.0 H200 T

Under the current code, the maximum total density is 5.0 FAR. Maximum commercial density is 1.0 FAR, and the maximum residential density is 200 du/acre. The maximum height is 200'. A maximum residential density of 200 du/acre is approximately 5.0 FAR (assuming an average unit size of a 1000sf).

Custom BTHDA-19A: CR 3.0 C1.0 R3.0 H75 T

This conversion is based on a recommendation in the Bethesda CBD master plan (page 124) which states that the CBD-R1 property south of Miller Ave. should be limited to a 3.0 FAR and a height 75'.

Custom BTHDA-19B: CR 3.0 C1.0 R3.0 H120 T

This custom conversion is based on an approved site plan (820130230). This property is located in the same block as BTHDA-19A implying that the conversion for this property should be limited to a 3.0 FAR and a height of 75'; however, the Planning Board approved a site plan for this property with a height of 120' to accommodate bonus density and the provision of MPDUs in excess of 12.5%. The custom conversion in this case increases height to 120' to match the site plan approval.

Custom BTHDA-25: CR 5.0 C1.0 R5.0 H145 T

This custom conversion is based on a master plan recommendation to limit height. The Bethesda CBD plan provides a recommended height map for the entire sector plan boundary on page 39. This map indicates a height limit of 143' for this property.

Custom SLVSP-16: CR 5.0 C0.5 R5.0 H200 T:

This conversion is based on footnote 18 attached to the maximum commercial FAR allowed in the CBD-R1 zone. It states that "On sites of 10 contiguous acres or more, the amount of non-residential development is limited to a maximum of 450,000 gross square feet." This footnote was drafted in conjunction with the Silver Spring CBD master plan, where the plan recommends this ZTA for the Blair's site (page 69). The site area in this case is approximately 29 acres. 450,000SF of commercial development for this site translates into an FAR of 0.36 – rounding up to an FAR of 0.5.

Custom WDMNT-03: CR 5.0 C1.0 R5.0 H145 T

This custom conversion is based on a master plan recommendation in the Woodmont Triangle plan. The sector plan contains a table on page 22 indicating by block the building heights for the plan area. The properties within this area zoned CBD-R2 have a recommended building height limit of 143'.

CBD-1

Default: CR 3.0 C2.0 R2.75 H90 T

Under the current code, the maximum total density is 3.0 FAR. Maximum commercial density is 2.0 FAR, and the maximum residential density is 125 du/acre. The maximum height is 90'. A maximum residential density of 125 du/acre is approximately 3.0 FAR (assuming an average unit size of 1000 sf), density is set at 2.75 FAR to ensure mixed-use to maximize total density.

Custom BTHDA-01: CR-3.0 C-2.0 R-2.75 H-75 T

This custom conversion is based on a master plan recommendation to limit height. The Bethesda CBD plan provides a recommended height map for the entire sector plan boundary on page 39. This map indicates a height limit of 75' for these properties.

Custom BTHDA-02: CR-3.0 C-2.0 R-2.75 H-60 T

This custom conversion is based on a master plan recommendation to limit height. The Bethesda CBD plan provides a recommended height map for the entire sector plan boundary on page 39. This map indicates a height limit of 60' for these properties.

Custom BTHDA-17: CR-3.0 C-2.0 R-2.75 H-35 T

This custom conversion is based on a master plan recommendation to limit height. The Bethesda CBD plan provides a recommended height map for the entire sector plan boundary on page 39. This map indicates a height limit of 35' for these properties.

Custom FSHIP-01: CR-3.0 C-1.5 R-2.75 H-90 T

This custom conversion limits commercial density based on a 1974 sector plan recommendation to allow 200 du/acre and 30,000 SF ground-floor retail if the office building is demolished. 30,000 SF on this site is approximately 0.32 FAR, thus the proposed conversion limits commercial FAR to 0.5. Total and residential FAR unchanged. However, if the building is not

demolished, current commercial density should be allowed. Recommend 1.5 commercial FAR as this is what is currently built.

Custom FSHIP-05: CR-2.0 C-2.0 R-1.5 H-90 T

This custom conversion is based on a master plan recommendation that limits total development on this site to a maximum of 300,000 SF, with approximately 65,000 SF of neighborhood ground floor retail, and 235,000 square feet of office space (page 42 in the Friendship Heights sector plan). This limit includes any existing structure that is not redeveloped. On this site, 300,000 SF of development would be approximately 1.9 FAR. Residential density is reduced to 1.5 to accommodate mandatory ground-floor retail recommended in Sector Plan.

Custom SLVSP-10: CR-3.0 C-2.0 R-2.75 H-75 T

This custom conversion is based on the Fenton Village overlay zone which state that “for properties with frontage on both Wayne Avenue and Fenton Street, notwithstanding the height limitations in Subsection (b)(1)(B)-(D), (height) may be increased by 15 feet for a building that includes residential uses or a mix of residential and commercial uses, if such additional height is not more than 200 feet from the right-of-way line for Fenton Street as recommended in the Approved and Adopted 2000 Silver Spring CBD Sector Plan...” The height limitation in Subsection (b)(1)(B)-(D) is that property located in a block that includes property in any single-family residential zone must not exceed 45’ in height for all uses except the height must not exceed 60 feet for: (i) residential use; or (ii) mixed use optional method, if at least 33% of the project’s floor area is residential and the project includes a hotel.

Custom SLVSP-11: CR-3.0 C-2.0 R-2.75 H-110 T

This custom conversion is based on the Fenton Village overlay zone which state that “[Building Height in the overlay zone] within the area between a major highway and a street that confronts a block that includes property zoned in any one-family residential classification, must not exceed 60 feet but may increase up to 90 feet the maximum height if at least 33% of a project’s floor area is residential; however, if additional building height is necessary to allow to accommodate workforce housing units and at least 33% of the project’s floor area is residential, up to 110 feet and where the additional height is placed near a major highway and decreases in the direction of the closest property zoned in any one-family residential classification;”

Custom SLVSP-12: CR-3.0 C-2.0 R-2.75 H-60 T

This custom conversion is based on the Fenton Village overlay zone which states that property located in a block that includes property in any single-family residential zone must not exceed 45’ in height for all uses except the height must not exceed 60 feet for: (i) residential use; or (ii) mixed use optional method, if at least 33% of the project’s floor area is residential and the project includes a hotel.

Custom SLVSP-15: CR-3.0 C-2.0 R-2.75 H-125 T

This custom conversion is based on the Ripley Street overlay zone which states that “Building height in the overlay zone along Newell Street and Eastern Avenue that confronts a residential zone in the District of Columbia must not exceed a height of 45 feet. However, this building height may be increased to: (A) a maximum of 90 feet for any building or portion of a building that is set back at least 60 feet from the street; or (B) a maximum of 125 feet for residential development that is set back at least 100 feet from Eastern Avenue and Newell Street and

includes a public parking garage constructed under a General Development Agreement with the County.”

Custom SLVSP-18: CR-3.0 C-2.0 R-2.75 H-145 T

Under certain circumstances, the Planning Board may increase height in the CBD-1 zone to 143'. This site is being developed under project plan 91998005A and 91998005B, and has been approved for a height of 143' in the CBD-1 zoned areas. For that reason, the conversion is proposing a height limit of 145' to match the development which has already been approved.

Custom WDMNT-01: CR-3.0 C-1.0 R-3.0 H-90 T

This custom conversion is based on the Woodmont Triangle plan which states on page 13 that “in order to encourage residential development, the recommended increase in density up to the maximum allowed would be for residential development. All CBD zoned parcels within the study area will be limited to a FAR of 1.0 for nonresidential development.” In addition, this property has been approved for residential density above the standard conversion up to 3.0 FAR under site plan 82006036B. As a result, the conversion will give the additional density which has already been approved.

Custom WDMNT-02: CR-3.0 C-1.0 R-2.75 H-90 T

This custom conversion is based on the Woodmont Triangle plan which states on page 13 that “in order to encourage residential development, the recommended increase in density up to the maximum allowed would be for residential development. All CBD zoned parcels within the study area will be limited to a FAR of 1.0 for nonresidential development.” Custom conversion limits commercial FAR to 1.0.

Custom WDMNT-11: CR-3.0 C-1.0 R-2.75 H-120 T

This custom conversion is based on the Woodmont Triangle plan which states on page 13 that “in order to encourage residential development, the recommended increase in density up to the maximum allowed would be for residential development. All CBD zoned parcels within the study area will be limited to a FAR of 1.0 for nonresidential development.” In addition, this plan “limits height in Block 9 to 90 feet. Parcel 646, the American Inn property, is situated between two taller buildings. To achieve comparable heights, building height may be increased on this property up to 118 feet.”

CBD-2

Default: CR 5.0 C4.0 R4.75 H145 T

Under the current code, the maximum total density is 5.0 FAR. Maximum commercial density is 4.0 FAR, and the maximum residential density is 200 du/acre. The maximum height is 143'. A maximum residential density of 200 du/acre is approximately 5.0 FAR (assuming an average unit size of 1000sf). Residential density is set at 4.75 FAR to ensure mixed-use for maximum total density.

Custom FSHIP-03: CR-3.0 C-2.75 R-0.5 H-145 T

This custom conversion is based on a master plan recommendation to “rezone the site from the CBD-1 Zone to the CBD-2 Zone with a maximum of 1,050,000 square feet of total development With optional method development, the Plan recommends a total of 750,000 square feet of

combined retail and office space. ... In addition, the Plan recommends a hotel of approximately 150,000 square feet and a minimum of 150,000 square feet of residential space. ... A grocery store could also be included within the development on the site... A facility of up to 40,000 square feet could be constructed. If the Planning Board determines... that additional grocery space is desirable for Friendship Heights, it may allow the grocery store to be included in the development without being counted toward the overall square footage limits. On this site, 1,050,000 square feet would be approximately 3.0 FAR. Commercial development (office, retail, and hotel) totaling 900,000 square feet would be approximately 2.6 FAR. And, 150,000 square feet of residential would be approximately 0.4 FAR.

Custom SLVSP-14B: CR-5.0 C-4.0 R-5.0 H-200 T

Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, if: ... "(ii) the additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan or the property is within a revitalization area designated in the applicable sector plan is located fully or partially within 800 feet of an entrance to a metro station..." In addition, this site has been approved for development with a residential FAR of 4.86. As a result, the conversion maps this property with a 5.0 residential FAR. (Site plan 82008015)

Custom SLVSP-14C: CR-5.0 C-4.0 R-4.75 H-200 T

Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, if: ... "(ii) the additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan or the property is within a revitalization area designated in the applicable sector plan is located fully or partially within 800 feet of an entrance to a metro station..."

Custom SLVSP-02: CR-5.0 C-4.0 R-4.75 H-200 T

This custom conversion is based on the Silver Spring CBD master plan which recommends "[allowing] additional height above 143' on the Silver Triangle site with Planning Board Approval." Footnote 11 of the Montgomery County Zoning Ordinance, §59-C-6.235(b) states that "under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, if ... (ii) the additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan..."

Custom WDMNT-06: CR-5.0 C-1.0 R-4.75 H-145 T

This custom conversion is based on the Woodmont Triangle plan that states on page 13 "in order to encourage residential development, the recommended increase in density up to the maximum allowed would be for residential development. All CBD zoned parcels within the study area will be limited to an FAR of 1.0 for nonresidential development."

Custom BTHDA-03: CR-5.0 C-4.0 R-4.75 H-90 T

This custom conversion is based on a master plan recommendation to limit height. The Bethesda CBD plan provides a recommended height map for the entire sector plan boundary on page 39. This map indicates a height limit of 90' for these properties.

Custom BTHDA-04: CR-5.0 C-4.0 R-4.75 H-60 T

This custom conversion is based on a master plan recommendation to limit height. The Bethesda CBD plan provides a recommended height map for the entire sector plan boundary on page 39. This map indicates a height limit of 60' for these properties.

Custom BTHDA-08: CR-5.0 C-4.0 R-4.75 H-100 T

This custom conversion is based on an approval for this site. The Bethesda CBD plan provides a recommended height map for the entire sector plan boundary on page 39. This map indicates a height limit of 90' for these properties. However, under site plan 820090150, height is approved for 98'.

Custom BTHDA-22: CR-5.0 C-4.0 R-4.75 H-125 T

This custom conversion is based on a master plan recommendation to limit height. The Bethesda CBD plan provides a recommended height map for the entire sector plan boundary on page 39. This map indicates a height limit of 125' for this property.

Custom SLVSP-07: CR-5.0 C-4.0 R-4.75 H-75 T

This custom conversion is based on the Silver Spring CBD master plan that states "rezone the National Concrete Ready Mix parcels located on Cedar Street and Ellsworth Drive from CBD-1 to CBD-2 with a height limit of 60 feet, allowing the height to exceed 60 feet up to a maximum height of 75 feet with Planning Board approval based on compatibility with surrounding structures."

Custom SLVSP-14D: CR-5.0 C-4.0 R-4.75 H-200 T

Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, if: ... "(ii) the additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan or the property is within a revitalization area designated in the applicable sector plan is located fully or partially within 800 feet of an entrance to a metro station..."

Custom BTHDA-40: CR-5.0 C-5.0 R-4.75 H-145 T

Under the current zoning ordinance, additional commercial density can be granted by the Planning Board for sites meeting certain criteria, including:

- A minimum lot size of 22,000 square feet
- Frontage on a "major highway"
- Within an "Urban District" as defined by Chapter 68A
- At least 250' from single-family zoned land
- Includes a hotel
- Includes ground-floor retail

This site has been approved for density under this method; commercial FAR for this property is set at 5.0. (Site plan 820120210)

Custom SLVSP-19: CR-5.0 C-4.0 R-4.75 H-200 T

Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, if: ... "(ii) the additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan or the property is within a revitalization area designated in the applicable sector plan is located fully or

partially within 800 feet of an entrance to a metro station..." In addition, this property has an approval for 200' in height. (Project plan 91998005A).

CBD-3

Default: CR 8.0 C6.0 R7.5 H200 T

Under the current code, the maximum total density is 8.0 FAR. Maximum commercial density is 6.0 FAR, and the maximum residential density is 200 du/acre. The maximum height is 200'. Under the translation residential density is set at 7.5 FAR to ensure mixed-use for maximum total density.

Custom BTHDA-05: CR-5.0 C-5.0 R-4.0 H-200 T

This custom conversion is based on the Bethesda CBD master plan. It states that "the following specific requirements for the optional method of development apply to the Hot Shoppes site: (a) Limit the density to 615,000 square feet of gross floor area (4 FAR). This density can be increased to 750,000 square feet (approximately 4.9 FAR) of retail and office uses with the provision of a professional theater as the preferred, substantial benefit. The gross floor area of the professional theater is not included in the limitations on density and would be in addition to the 750,000 square feet. If the Planning Board determines that the theater is not viable, a minimum of 135,000 SF of housing may be provided within the 750,000 SF."

Custom BTHDA-23: CR-8.0 C-6.0 R-7.5 H-145 T

This custom conversion is based on a master plan recommendation to limit height. The Bethesda CBD plan provides a recommended height map for the entire sector plan boundary on page 39. This map indicates a height limit of 143' for this property.

Custom BTHDA-24: CR-8.0 C-6.0 R-7.5 H-175 T

This custom conversion is based on a master plan recommendation to limit height. The Bethesda CBD plan provides a recommended height map for the entire sector plan boundary on page 39. This map indicates a height limit of 175' for this area.

TS-R (Transit station, residential)

In the current zoning code, TS-R is a floating zone with a maximum overall density of 2.5. The commercial density is determined by the master plan or, if the master plan is silent, limited to street level or a restaurant in the penthouse. Residential density is limited to 150 dwelling units/ acre and the maximum height is established during site plan review.

Many projects in the TS-R zone were approved for residential development without a commercial component. For projects approved as residential only, the commercial density in the CR formula is set to 0.25 because that is the lowest threshold of commercial FAR required in by the CR zone.

Custom BTHDA-27: CR-2.25 C-0.5 R-2.0 H-125 T

This site, in conjunction with BTHDA-28, was reclassified to the TS-R zone by Local Map Amendment/ Development Plans G-561, G-583, and received further development approvals with Preliminary Plan 1-1988-0860, and Site Plan 8-1988-0310 & A. The project was approved for a total FAR of 2.20, including 21,050 sf of commercial development and 149 dwelling units. This portion of the site was approved with a maximum height of 122'.

Custom BTHDA-28: CR-2.25 C-0.5 R-2.0 H-35 T

This site, in conjunction with BTHDA-27, was reclassified to the TS-R zone by Local Map Amendment/ Development Plans G-561, G-583, and received further development approvals with Preliminary Plan 1-1988-0860, and Site Plan 8-1988-0310 & A. The entire project was approved for a total FAR of 2.20, including 21,050 sf of commercial development, and 149 dwelling units. The development plan limited the offices in this portion of the site to the existing structures, which were built under R-60 standards, so the maximum height is 35', identical to the maximum height in the R-60 zone.

Custom BTHDA-29A: CR-1.0 C-0.25 R-1.0 H-40 T

This site was approved for the TS-R zone by Local Map Amendment/ Development Plan G-720, as amended by DPA 03-2. The zoning approvals authorized 6 three story townhouses (approximately 1.0 FAR and 40' in height).

Custom BTHDA-29B: CR-1.75 C-0.25 R-1.75 H-40 T

This site was approved for the TS-R zone by Local Map Amendment/ Development Plan G-720, and received further development approvals with Preliminary Plan 1-1997-0380 and Site Plan 8-1998-0120. This site was approved for 22 three story townhouses (approximately 1.64 FAR and 40' height.)

Custom BTHDA-29C: CR-2.0 C-0.25 R-2.0 H-50 T

This site was approved for the TS-R zone by G-865, G-779, and DPA 07-03 with a 2.0 FAR of residential density and a maximum height of 48'.

Custom BTHDA-29D CR-2.0 C-0.25 R-2.0 H-50 T

This site was approved for the TS-R zone by Local Map Amendment/ Development Plan G-778, and received further development approvals with Preliminary Plan 1-2001-0180 and Site Plan 8-2001-0040. The project was approved for 36,700 sf (1.9 FAR) of residential development and a maximum height of 3 stories, up to 46'.

Custom BTHDA-30: CR-2.5 C-0.25 R-2.5 H-70 T

This site was approved for the TS-R zone by Local Map Amendment/ Development Plans G-954 and DPA 13-0, and received further development approvals with Preliminary Plan 1-2008-0050 & A, and Site Plan 8-2008-0030. The project was approved for 3.05 FAR of residential development, including a 22% density bonus for providing 15% MPDUs. The MPDU density bonus is captured in the 'T' provision, so the maximum and residential FAR are capped at 2.5 FAR. The project was approved with a maximum height of 70'.

Custom BTHDA-30B: CR-2.5 C-0.25 R-2.5 H-70 T

This site was approved for the TS-R zone by Local Map Amendment/ Development Plan G-908, and received further development approvals with Preliminary Plan 1-2013-0120 and Site Plan 8-

2013-0150. The project was approved for 2.496 FAR of residential development at a maximum height of 69'.

Custom BTHDA-31: CR-2.5 C-0.25 R-2.5 H-130 T

This site was approved for the TS-R zone by Local Map Amendment?? / Development Plan Amendment 87-1, and received further development approvals with Preliminary Plan 1-1986-2830 and Site Plan 8-1986-1020. The site was approved for a total FAR of 2.50 with 255 dwelling units with a maximum height of 12 stories (130').

Custom BTHDA-32A: CR-2.5 C-0.25 R-2.5 H-75 T

This site was approved for the TS-R zone by Local Map Amendment/ Development Plan G-347 and received further development approvals with Preliminary Plan 1-1984-0580 and Site Plan 8-1986-0810. The site was approved for 115,192 sf of residential development (2.499 FAR) and a height of 8 stories, or 72'.

Custom BTHDA-32B: CR-1.5 C-0.25 R-1.5 H-40 T

This site was approved for the TS-R zone by Local Map Amendment/ Development Plan G-755 and received further development approvals with Preliminary Plan 1-1998-0670 and Site Plan 8-1988-0350. The site was approved for 17 dwelling units (1.39 FAR, assuming a 2400 sf unit size) and a maximum height of 38'.

Custom BTHDA-32C: CR-2.5 C-0.25 R-2.5 H-75 T

This site was approved for the TS-R zone by Local Map Amended/ Development Plan G-842, as modified by DPA 00-2 and DPA 06-02. DPA 06-02 approved 60 residential units at 3.05 FAR, including a 22% density bonus for providing 15% MPDUs. The site was mapped with a 2.5 total and residential FAR, and the 22% bonus density is incorporated into the "T" provision. The site was approved with a maximum height of 71'.

Custom BTHDA-32D: CR-1.75 C-0.25 R-1.75 H-50 T

This site was approved for the TS-R zone by Local Map Amendment/Development Plans G-721, G-755, G-769, G-842, DPA 98-1, DPA 98-2, DPA 00-2, and DPA 06-2. The site received further development approvals with Preliminary Plan 1-2007-0720 and Site Plan 8-2007-0230 for 12,750 sf of residential development (approximately 1.71 FAR) and a maximum height of 48'.

Custom BTHDA- 32E: CR-2.5 C-0.25 R-2.5 H-75 T

This site was approved for the TS-R zone by Local Map Amendment/ Development Plan G-819, and received further development approvals with Preliminary Plan 1-2007-0280 and Site Plan 8-2007-0060. The site was approved for 3.05 FAR of residential development, including a 22% bonus density for providing 15% MPDUs. The site was mapped with a 2.5 total and residential FAR, and the 22% bonus density is incorporated into the "T" provision.

Custom BTHDA-32F: CR-1.75 C-0.25 R-1.75 H-45 T

This site was approved for the TS-R zone by Local Map Amendment/ Development Plan G-721, as amended by DPA-96-4, and received further development approvals with Preliminary Plan 1-1996-0590 and Site Plan 8-1997-0110/A. The site was ultimately approved for 12 dwelling units (1.66 FAR, assuming a unit size of 2400 sf) at a maximum height of 42'.

Custom WFLINT-03: CR-2.5 C-0.25 R-2.5 H-190 T

This site was approved for the TS-R zone by Local Map Amendment / Development Plan Amendment DPA 86-1 and received further development approvals with Preliminary Plan 1-1980-1120 and Site Plan 8-1986-0590(A). The project was approved for a total FAR of 2.43, 3,000 sf of retail space (rounded up 0.25 FAR), 945 dwelling units, and a maximum height of 18 stories (190').

TS-M (Transit station, mixed)

TS-M is a floating zone with an overall density limitation of 3.0 FAR in the existing zoning code. The current zoning code does not provide guidance about height or the appropriate mix of commercial and residential densities, so development plans were used to create the CR formula.

Custom BTHDA-20: CR-2.75 C-0.5 R-2.5 H-55 T

This site is part of a project in downtown Bethesda (see also BTHDA-21) approved for the TS-M zone by Local Map Amendment/ Development Plan G-850. The development plan authorized a maximum overall density of 2.59 FAR, including 250 dwelling units (approximately 2.5 FAR using a 1437.5 average unit size assumption). The development plan did not have an explicit statement about commercial development, so staff looked to the site plan for guidance. Site plan 8-2007-0180 authorized 40,000 sf of commercial development (approximately 0.28 FAR). The development plan limited the height to 54' on this lot.

Custom BTHDA-21: CR-2.75 C-0.5 R-2.5 H-90 T

This site is part of a project in downtown Bethesda (see also BTHDA-20) approved for the TS-M zone by Local Map Amendment/ Development Plan G-850. The development plan authorized a maximum overall density of 2.59 FAR, including 250 dwelling units (approximately 2.5 FAR using a 1437.5 average unit size assumption). The development plan did not have an explicit statement about commercial development, so staff looked to the site plan for guidance. Site plan 8-2007-0180 authorized 40,000 sf of commercial development (approximately 0.28 FAR). The development plan limited the height to 90' on this lot.

Custom FSHIP-02: CR-3.0 C-2.0 R-1.0 H-100 T

This site was reclassified to the TS-M zone by Local Map Amendment/ Development Plan G-760. The development plan authorized a maximum overall density of 2.85 FAR comprised of 810,000 sf of commercial space (1.88 FAR) and 420,536 sf of residential development (0.97 FAR). The development plan set the maximum height at 9 stories.

Custom FSHIP-06: CR-0.75 C-0.75 R-0.25 H-40 T

This site was reclassified to the TS-M by Local Map Amendment/ Development Plan G-775, and amended by DPA 10-01. The development plan authorized 112,000 sf of commercial development (0.54 FAR) and a maximum height of 3 stories. Since no residential development was approved for this site, staff recommends decreasing the residential density to 0.25 FAR, the lowest amount allowed in the CR zone.

Custom WFLINT-02: CR-3.0 C-2.5 R-0.75 H-200 T

The zoning translation for this property was based on G-96, as amended by DPA 87-2, and DPA 92-3. The original development plan, G-96, consisted of 12.25 acres. However, a portion of the original TS-M zoned site (Lot 5, owned by HOC) has since been rezoned to CR by the White Flint

Sector Plan. The portion of the site that remains in the TS-M zone is 6.646 acres. Therefore, density is calculated based on the 6.646 acres, assuming 673,990 sf of commercial space (2.32 FAR), and 200 dwelling units (approximately 0.69 FAR, assuming an average unit size of 1000 sf).

Custom WFLINT-04: CR-2.5 C-0.25 R-2.5 H-190'

The zoning translation was based on Local Map Amendment/Development Plan G-726, as amended by DPA-01-01, DPA-04-01 and DPA 06-04. The most recent zoning approval, DPA 06-04, authorized an overall density of 2.4 FAR (2.39 FAR of residential plus .01 FAR of commercial) and a maximum height of 18 stories.

Custom SDYGR-15: CR-0.75 C-0.75 R-0.25 H-80 T

The zoning translation for this property was based on Local Map Amendments/ Development Plans G-7, G-401, and DPA 83-4 (which modified G-7). Based on the most recent approvals, G-401 and DPA 83-4, the density of this site should be limited to 0.5585 FAR of commercial development with a maximum height of 7 stories.

MXN (Mixed Use Neighborhood) floating zone

The current zoning code specifies a maximum overall density of 0.3 FAR in the MXN zone. The current code also requires that 25% of the gross floor area for any project be residential. Since the zoning code does not specify a maximum height in the MXN zone, staff used the development plan to set the parameters of the translation.

All land classified as MXN is located in the 192 acre Traville development. The site was rezoned to MXN by Local Map Amendment/ Development Plan G-718. The development plan authorized 1,322,500 sf of non-residential development (0.16 FAR), 750 dwelling units (approximately 0.22 FAR), and a maximum height of 6 stories across the entire site.

Custom GSSCR-05A: CRT-0.5 C-0.25 R-0.25 H-70 T

This translation is based on the standards of the zone and the development plan approval.

Custom GSSCR-05B: CRT-0.5 C-0.5 R-0.25 H-70 T

This translation is the result of a request from a property owner based on Site Plan 820010120, which authorized 1,030,000 sf (0.34 FAR) of commercial development to locate on this lot.

MXPD (Mixed Use Planned Development) floating zone

The current zoning code specifies a maximum commercial density of 0.75 FAR and a maximum residential density of 75 du/acre (2.48 FAR, assuming an average unit size of 1437.5 sf) for the MXPD zone. Since the zoning code does not specify a maximum height in the MXN zone, staff used the development plan to set the parameters of the translation.

Custom CLRKG-06: CRT-0.5 C-0.25 R-0.25 H-130 T

This site was reclassified to the MXPD zone by Local Map Amendment/ Development Plan G-806, as amended by DPA 13-02. DPA 13-02 authorized 2,420,000 sf of commercial development (.20 FAR) and 1,639 residential units (0.25 FAR assuming 700 detached or townhouse units at an average size of 2400 sf, and 939 multifamily units averaging 1437.5 sf).

Custom NBETH-02: CR-1.5 C-0.75 R-0.75 H-275 T

The District Council approved Local Map Amendment/ Development Plan G-713 in 1997 to reclassify this property from the R-H zone to the MXPD zone. The development plan authorized 1250 multi-family dwelling units (0.67 FAR assuming a 1437.5 average unit size) and 1,325,000.00 sf of commercial space (0.58 FAR). The tallest building is approved at 272' per Site Plan 820090030. This site, unlike the other MXPD sites which translate to CRT, translates to CR because the CRT zone does not permit building heights above 150'.

Custom GSSCR-06: CRT-1.0 C-0.25 R-1.0 H-110 T

This site was reclassified to the MXPD zone by Local Map Amendment/ Development Plan G-439, as amended by DPA 86-2 and DPA 86-5. However, a majority of the original 212.6 acre MXPD site has since been annexed by the City of Gaithersburg. Because this translation only applies to a small portion of the land area in the original development plan, and the development plan was vague about the location of buildings, staff based the CRT density on the following Site Plans: 819940040, 819930180, 819970150. These site plans approved a residential density of approximately 0.85 FAR, and a commercial density of 0.0008 FAR. The height in the translation is based on G-439, which authorized a maximum height of 10 stories for the majority of the area.

I-1

Default: IM-2.5 H-50

The I-1 zone allows a maximum building height of 42'; however, the Planning Board increased the height in the conversion to 50' after hearing concerns from several industrial property owners about the height necessary to accommodate certain industrial uses. The I-1 zone has no maximum FAR; the 2.5 FAR in the conversion accommodates existing buildings. Under special regulations in the I-1, height can be increased up to 120' for providing an employment center if the master plan does not indicate that large employment centers are unsuitable.

Custom BOYDS-02: IM-1.5 H-45

The master plan (pg. 9) states that "Although the master plan recommends I-1 zoning, this property is not suitable as a major employment center. Low intensity uses, such as warehousing, are envisioned." Since the master plan recommends a lower intensity on this site, it was given a lower FAR and height in the conversion.

Custom GTOWN-03: IM-2.5 H-80

This conversion is the result of the property owner requesting that staff match the site's development approval under site plan 81998022F, which allows for a maximum building height of 79.'

Custom WESTB-02: IM-1.5 H-45

The master plan (table on pg. 65) notes that the height limit in the I-1 zone is 42'. The master plan also states (pg. 64) that "the optional method of development in both the C-O zone and I-1 zoned areas may not be authorized" for all of Westbard. Since the master plan recommends a lower intensity on this site, it was given a lower FAR and height in the conversion.

I-2

Default: IH-2.5 H-70

The I-2 zone allows a maximum of 70' in height and has no maximum FAR. The 2.5 FAR given in the conversion accommodates existing development.

I-4

Default: IL-1.0 H-50

The I-4 zone allows a maximum building height of 42'; however, the Planning Board increased the height in the conversion to 50' after hearing concerns from industrial property owners about the height necessary to accommodate certain industrial uses. The I-4 zone allows a maximum FAR of 1.0.

R&D

Default: IM-0.5 H-75

The R&D zone allows a maximum building height of 50' for standard method and 75' for optional method. The maximum FAR in the R&D zone is 0.3 under standard method and 0.5 under optional method.

R-S

Default: IM-0.25 H-50

The R-S zone allows a maximum building height of 50' and a maximum FAR of 0.15.

I-3

Default: EOF-0.75 H-100 T

The I-3 zone allows a maximum building height of 100 feet. The maximum density is 0.5 FAR, except that the maximum density may be increased to a 0.6 FAR, provided that the applicant for development obtains approval of a traffic mitigation agreement at time of site plan review that will result in traffic generation equal to or less than a project with a FAR of 0.5. In addition, special regulations for optional method development in the I-3 zone permit a mixed-use development at locations that have convenient access to transit and are recommended in the master plan. The purpose of the I-3 mixed use option is to promote mixed use, transit and pedestrian oriented centers, which include housing and a commercial component with an employment emphasis. Dwellings are permitted by right under this method of development and density must not exceed any density limits set in the master plan. The maximum non-residential density is 0.6 FAR, and retail/service can be no more than 20% of total FAR while employment has to be at least 60% of FAR. Base residential density must not exceed 8 units per acre. Base density may be increased to accommodate MPDUs and TDRs provided that the final density

does not exceed 12.5 units per acre and does not exceed the recommended total density in the applicable master plan.

Custom GTOWN-01 (KI-B): EOF-0.25 H-100

The master plan (pg. 73) “recommends that the property be zoned I-3 with a 0.25 FAR. The base zone should be R&D; however, this area is not suitable for the optional method of development due to issues of compatibility with surrounding residential uses.” Since the master plan recommends against the optional method of development, this conversion does not include the “T.”

Custom NBETH-05: EOF-1.0 H-100 T

This conversion is the result of the property owner requesting that staff match the site’s development approval under site plan 819890490. Site plan amendment G says “in no event shall the total FAR on the site exceed 1,635,100 SF.” The gross tract area is 44.1628 acres. This works out to a 0.849 FAR.

Custom NBETH-06: EOF-1.0 H-100 T

This conversion is the result of the property owner requesting that staff match the site’s development approval under site plan 819900270. The site plan is approved for 463,651 SF of development on 12.52 acres, which is a 0.85 FAR.

Custom NBETH-07: EOF-1.0 H-100 T

This conversion is the result of the property owner requesting that staff match the site’s development approval. There is no available plan information for this site, but the master plan confirms that the site is built to 0.84 FAR (see table on page 97).

Custom NBETH-08: EOF-1.0 H-110 T

This conversion is the result of the property owner requesting that staff match the site’s development approval. There is no available plan information for this site, but the master plan confirms that the site is built to 1.0 FAR and is 10 stories tall (see table on page 97).

Custom POTMC-10: CRT-1.25 C-0.5 R-0.75 H-100 T

This conversion is the result of the property owner requesting that staff match the site’s development approval under site plan 82004015K. The site is approved for 600 dwelling units (150 townhouses and 450 multifamily) and 850,000 SF of commercial FAR, on 54.84 acres. According to the resolution and site plan, the commercial portion is on 20.28 acres, which is 0.35 FAR of commercial. For the residential, the FAR works out to 0.67 (assuming 150*2400 + 450*1437.5, on 34.41 acres as stated in the site plan). This I-3 conversion utilizes CRT instead of EOF because of the residential to commercial split that was already approved (EOF would limit residential development to 30% of the FAR on site).

Custom SDYGR-01 (Robert’s Oxygen Property-Site 1): EOF-0.5 H-45

The master plan (pg. 29-30) states that this area should be rezoned to the “R&D/I-3 zone standard method. Development should be limited to 0.3 FAR in order to maintain the jobs to housing ration in the plan area.” It also says to “establish a 42’ building height limit to improve compatibility with adjacent residential community.” Since the master plan recommends the standard method of development, this conversion does not include the “T.”

Custom SDYGR-02 (Casey 6-Site 2): EOF-0.5 H-50

The master plan (pg. 30) says “to accommodate housing options between Casey 6, Casey 7, Metro North-CSP and Jeremiah Park, allowing up to 130 units on Casey 6...Density cannot be increased for bonus MPDUs due to site constraints.” It also recommends “rezoning from I-1 to R&D/I-3 zone. Allow up to 0.3 FAR industrial/office uses and support the I-3 optional method with housing under the provisions outlined in the Potential Joint Development section....Limit building heights to 4 stories to establish compatibility with nearby residential communities.” Since the master plan notes that density cannot be increased for bonus MPDUs, this conversion does not include the “T.”

Custom SDYGR-03 (Casey 7-Site 3): EOF-0.75 H-60 T

The master plan (pg. 31) says to limit “non-residential density to 0.3 FAR to limit employment in the plan area....to accommodate housing options among Casey 6, Casey 7, Metro North-CSP, and Jeremiah Park, this site can accommodate up to approximately 135 base density housing units on Casey 7 under the R&D/I-3 zone optional method with housing...Housing units can be increased for workforce housing, TDRs, and MPDU bonus density where applicable, but cannot exceed 340 units maximum. Allow up to 0.3 FAR industrial/office uses....Rezoning from I-1 to R&D/I-3 zone and support housing options under the I-3 optional method with housing or with PD-18 zoning....Limit building heights to 5 stories to establish a midrise character along Shady Grove Road. Maintain 4 stories or less along Crabbs Branch Way.”

Custom SDYGR-13 (Casey Property – Vacant Site 2): EOF-0.75 H-100

The master plan (pg. 26) says to “Provide technology, research and development, or office uses... Rezone from R-20 to R&D with an I-3 standard method allowing expanded employment.” Since the master plan recommends the standard method of development, this conversion does not include the “T.”

Custom SDYGR-14 (Casey Property – Vacant Site 3): EOF-0.75 H-100

The master plan (pg. 26) says to “Provide technology, research and development, or office uses to create a technology corridor...Rezone from I-1 to R&D with an I-3 standard method allowing expanded employment. Housing is not appropriate given the site’s proximity to solid waste transfer station.” Since the master plan recommends the standard method of development, this conversion does not include the “T.”

LSC

Default: LSC-2.0 H-200 T

The maximum building height allowed in the LSC zone is 200’ and the maximum allowed FAR is 2.0

Custom CCLAK-01: LSC-0.5 H-65 T

The master plan (pg. 36) recommends limiting development at HHMI to a maximum of 0.5 FAR and a maximum building height of 65 feet.

Custom GRMTC-26: LSC-2.0 H-100 T

The master plan (pg. 73) says to “permit building height up to 100 feet (8 stories) and cluster new development to ensure a dense and cohesive campus.”

Custom GSSCR-01: LSC-1.0 H-150 T

The master plan (pg. 36) says to “allow a maximum of 1.0 FAR for properties in LSC Central....Locate the highest density and tallest buildings (150 feet) adjacent to the transit station to form an identifiable center.”

Custom GSSCR-02: LSC-1.5 H-150 T

The master plan (pg. 36) says to “allow a maximum of 1.5 FAR for properties in the center of the district (bounded by Key West Avenue, Medical Center Drive, and Broschart Road): AHC, JHU, and 9707, 9711, and 9715 Medical Center Drive....Locate the highest density and tallest buildings (150 feet) adjacent to the transit station to form an identifiable center.”

Custom GSSCR-03: LSC-1.0 H-110 T

The master plan (pg. 36) says to “allow a maximum of 1.0 FAR for properties in LSC Central.” Although the text broadly recommends the highest density and tallest buildings (150 feet) adjacent to the transit station to form an identifiable center, the map on pg. 36 shows these properties limited to 110’ maximum.

Custom GSSCR-04: LSC-1.0 H-150 T

The master plan (pg. 45) says to “rezone the Belward property from R&D to the LSC zone and allow up to 1.0 FAR.” On pg. 46, the master plan says to “concentrate the highest density and building heights (150 feet) near the CCT station.”

LINOWES
AND | BLOCHER LLP
ATTORNEYS AT LAW

June 26, 2014

Erin E. Girard
301.961.5153
egirard@linowes-law.com

Council President Rice
And Members of the Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Re: Proposed Alternative Map Translations for the C-1 Zone

Dear Council President Rice and Members of the Montgomery County Council:

On behalf of our client, Equity One Inc., the owner of a number of commercial properties in Westbard, we would like to note our objection to the proposed alternative map translations for the C-1 zone presented to the PHED Committee by Staff at the June 9, 2014 worksession for the reasons stated below.

First, as part of the alternative map translations, Staff has proposed that all C-1 conversions to the NR zone be decreased from a maximum FAR of 1 to 0.75 FAR. As a basis for this, Staff has stated that after modeling various properties, they determined that no greater than a 0.75 FAR could be achieved on existing C-1 properties because of parking requirements. In this analysis, Staff indicated that they only considered on-site surface parking as satisfying parking requirements. We believe this assumption is incorrect. Under certain circumstances, the use of adjacent land to meet parking requirements is permitted under the existing zoning and, in a number of instances, is and has historically been occurring. For example, Equity One owns the Westwood I property, a C-1 property that contains approximately 8 acres and is located on the west side of Westbard Avenue, just south of Ridgefield Road. This property is improved with a retail center and currently utilizes an adjacent 3+ acre property zoned R-60, also owned by Equity One, for parking, an arrangement that has existed since the 1950s. Disallowing this area for purposes of calculating permitted density, therefore, does not reflect what is allowed on this property today. Therefore, we request that the original recommendation for this property of NR 1 H 45 be retained.

Second, we note that the reduction in height from 45 feet to 35 feet for all C-1 properties confronting R-90, R-60 and R-40 zones converting to CRT proposed in the alternative mapping would, in certain cases, restrict height below that permitted and existing today. In this regard, we note that Equity One also owns the Westwood II property, an approximately 2-acre property located at the corner of River Road, Ridgefield Road and Westbard Avenue. The commercial building on this property is currently four stories in height and we understand already exceeds

Council President Rice and
Members of the Montgomery County Council
June 26, 2014
Page 2

35 feet. As noted, this property has frontage on River Road, Westbard Avenue and Ridgefield Road and is adjacent to or confronting commercial uses on three sides and a multi-story senior living facility operating under a special exception in the R-60 zone on a fourth. As such, this property confronts only a very limited area of single-family residential development. Accordingly, we believe that the original zoning recommendation of CRT 0.75 C 0.5 R 0.25 H 45 for the property is the correct zoning conversion and should be retained.

Finally, under the alternative map translation, Equity One's properties located on the east side of Westbard Avenue that currently house the existing Bowlmor (approximately 2 acres) and Citgo gas station (approximately 0.5 acre) would see both a reduction in density from CRT 1.0 to CRT 0.75 and a height reduction from 45 to 35 feet simply due to their location confronting the Westwood I R-60 parking lot. These properties front on Westbard Avenue and are otherwise surrounded by commercial or high-rise residential uses, including Westwood Towers, which is 15 stories in height, and Park Bethesda, which is 9 stories in height. As a result, we believe the original map translation of CRT 1.0 C 0.75 R 0.5 H 45 is most appropriate for these properties.

These discrepancies between existing conditions and the context of Equity One's properties and the restrictions proposed by the alternative mapping for the above three properties indicate that the currently mapped zoning is the most appropriate for these properties. We therefore respectfully request that the PHED Committee and Council recommend maintaining the C-1 conversions currently shown on the zoning conversion maps for these properties, as explained above.

Thank you for your attention to these concerns. If you have any questions or would like any additional information, please contact us.

Very truly yours,

LINOWES AND BLOCHER LLP



Erin E. Girard

cc: Jeffrey Zyontz
Rose Krasnow
Pamela Dunn
Barbara Sears

The City of Takoma Park

7500 Maple Avenue
Takoma Park, MD 20912
Telephone: 301.891.7100
Fax: 301.270.8794
www.takomaparkmd.gov



Brian Kenner, City Manager

June 5, 2014

Montgomery County Planning, Housing, and Development (PHED) Committee
Council Office Building
100 Maryland Avenue, 5th Floor
Rockville, MD 20850

RE: Montgomery County Zoning Rewrite: C-1 Translation in Historic Districts

Dear President Rice and PHED Committee Members,

The City was informed by Montgomery County Planning staff on June 2, 2014 that a change to the zoning ordinance translation for the C-1 zones in downcounty historic districts was being recommended. It is the understanding of City staff that the Planning Department's recommendation is for translating all property zoned C-1 in downcounty historic districts to Neighborhood Retail (NR), instead of Commercial Residential Town (CRT), as previously proposed and decided by vote at the December 13, 2013 PHED Committee worksession.

Upon reviewing the impacts and rationale for this revised recommendation, the City of Takoma Park objects to this change in its current form based on the premise that the new NR zone would substantially impact existing permitted land uses and development standards. In addition, as City staff was only notified recently of this potential change more time is needed to fully evaluate all impacts.

In the Takoma Park Historic District, property zoned C-1 constitutes the overwhelming majority of the commercial district, comprising 53 properties over 11.5 acres of land. The change to NR is inconsistent with the intent of recommendations in the Takoma Park Master Plan (2000), which emphasizes a pedestrian oriented, walkable vision. The proposed change to NR was vaguely communicated to City staff with very little time to adequately and thoughtfully respond. The City is awaiting a response from the Montgomery County Planning Department on the planned outreach for communicating this abrupt change in the policy toward the C-1 conversion with affected property owners in Takoma Park and elsewhere in downcounty historic districts.

At this time, City staff has received no written staff report or documentation outlining the proposed change, beyond the enclosed land use comparison chart, furnished 6/3/2014. During a 6/3/2014 conference call with City staff, the rationale provided by the Montgomery County Planning Director for this substantive change stems from differences in permitted land uses. It was expressly communicated to City staff that the guiding principle of the Zoning Ordinance Rewrite is to translate the zones as closely as possible in terms of character and permitted land uses (i.e. “apples to apples”) and the new NR zone more closely resembles the existing C-1 zone, rather than CRT.

The defining characteristics of the NR zone are inconsistent with areas in the Takoma Park Historic District presently in the C-1 zone:

The NR Zone addresses development opportunities within primarily residential areas with few alternative mobility options and without a critical mass of density needed for pedestrian-oriented commercial use. (Montgomery County Zoning Ordinance, Council Approved, p. 4-82)

In contrast,

The CRT zone is intended for small downtown, mixed use, pedestrian-oriented centers and edges of larger, more intense downtowns. Retail tenant ground floor footprints are limited to preserve the town center scale. Transit options may include light rail, Metro, and bus. (Montgomery County Zoning Ordinance, Council Approved, p. 4-75)

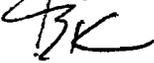
The fundamental difference between the CRT and NR zones are in their respective orientations towards modes of transportation, in particular walkability. The Takoma Park Historic District is served by four Ride On bus lines and one Metrobus line (a WMATA Priority Corridor). The Takoma Metro Station in the District of Columbia is within two blocks of the nearest commercial properties, and within a mile of the furthest commercial properties in the historic district. These properties are linked to the Metro station with recently improved streetscapes and convenient bicycle access. Two of the most actively used Capital Bikeshare stations in Montgomery County (ranked #4 and #9 out of 49 stations countywide) are in the Takoma Park Historic District, surrounded by C-1 zoned properties. Committed to improving the pedestrian and bicycle experience in the Takoma Park, the City is working with the State Highway Administration to add a signalized pedestrian crosswalk in the Historic District and was awarded state funding to improve on-street marked bicycle facilities in the area as well.

The vision for Takoma Old Town is of a village center with traditional small town charm, providing unique stores and services to both nearby neighborhoods and regional visitors. The strengths of the area include the Takoma Metro station, neighborhoods within walking distance, an appealing character, public spaces, and a variety of businesses. (Takoma Park Master Plan, p. 42)

To achieve the vision in the Master Plan, the Takoma Park East Silver Spring Overlay Zone was created in order to encourage mixed use development in Takoma Park's commercial districts, allowing for residential and other additional land uses as well more controls over urban design. Translating the C-1 zone in the Takoma Park Historic District to NR requires corresponding additions to the March 5, 2014 version of the Takoma Park East Silver Spring Overlay Zone (TPESS), to retain existing permitted land uses and development standards that would be prohibited or unavailable in the proposed underlying NR zone. Without these additions to the TPESS text, the translation of the C-1 in Takoma Park Historic District to NR results in a more restrictive zoning than exists today. The list of additions to the TPESS text (Montgomery County Zoning Ordinance, Council Approved, p. 4-116, 4-117) is enclosed, but is preliminary in nature, given the short time with which to analyze the proposed C-1 zoning translation change.

For questions pertaining to the City's position and clarification on details in the enclosures, please contact Sara Ann Daines, Housing and Community Development Director at 301-891-7224 or SaraD@takomaparkmd.gov.

Sincerely,



Brian Kenner
City Manager

cc: Honorable Mayor and City Council Members
Suzanne Ludlow, Deputy City Manager
Sara Anne Daines, Director, Takoma Park Housing and Community Development
Rosalind Grigsby, Community Development Coordinator
Jeff Zyontz, Legislative Analyst, Montgomery County Council
Gwen Wright, Director, Montgomery County Planning Department
Rose Krasnow, Deputy Director, Montgomery County Planning Department
Pam Dunn, Project Manager, Montgomery County Zoning Ordinance Rewrite

enclosures

Introduced by: Councilmember Smith

CITY OF TAKOMA PARK, MARYLAND

**RESOLUTION 2014-20
SUPPORTING ZONING TRANSLATION FROM C-1 TO NR
IN TAKOMA PARK HISTORIC DISTRICT**

WHEREAS, the Montgomery County Zoning Ordinance Rewrite is being developed by Montgomery County's Planning Department to modernize, clarify, and simplify the existing outdated and unwieldy ordinance; and

WHEREAS, the Montgomery County Zoning Ordinance is being rewritten to reflect more sustainable policy goals; and provide the tools necessary to shift from greenfield development to infill, mixed-use development; and

WHEREAS, the City of Takoma Park Housing and Community Development staff has been coordinating with Montgomery County Planning staff on proposed zoning translations that affect properties within the City limits; and

WHEREAS, the Montgomery County Planning staff recommends an alternative translation for the C-1 zones in master plan designated historic districts to Neighborhood Retail (NR); and

WHEREAS, in the event the alternative zoning translation proposed by the Montgomery County Planning staff is enacted, the text of the Takoma Park East Silver (TPESS) Overlay Zone must be corrected to ensure the retention of existing development rights, controls, and permissions outlined in the current overlay zone.

WHEREAS, the Montgomery County Council Planning, Housing and Economic Development (PHED) Committee is holding a worksession on July 3, 2014, to deliberate on the alternative zoning recommendation affecting commercial properties in the Takoma Park Historic District.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Takoma Park supports Montgomery County Planning Department's alternative proposed translation from C-1 to NR in the Takoma Park Historic District with the explicit understanding that, if the proposed zoning translation is enacted, the Montgomery County Council PHED Committee will incorporate the corrections to the Takoma Park East Silver Spring (TPESS) Overlay Zone, identified in Exhibit A, attached hereto and made a part of this Resolution, which are intended to retain existing development rights, controls, and permissions outlined in the current overlay zone.

Adopted this 23rd day of June, 2014.

ATTEST:


Jessie Carpenter, CMC
City Clerk

**Section 4.9.12.
Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone**

A. Purpose

The purpose of the TPESS Overlay zone is to:

1. Foster economic vitality and attractive community character in areas needing revitalization.
2. Promote an enhanced pedestrian environment and an improved circulation system to pedestrians and bicycles as well as motor vehicles.
3. Substantially conform with the master plan vision for specific existing commercial areas.
4. Provide for the combination of residential with commercial uses.

B. Land Uses

1. Residential Uses

- a. In the CRT zone, residential density may be increased above the number following the R on the zoning map, up to the maximum mapped density.
- b. In the NR zone, Household Living uses may exceed 30% of the total gross floor area on the subject site up to the maximum mapped density.
- a-c. Residential uses must be in a multi-use building type with the ground floor devoted to commercial uses, unless this requirement is waived by the Planning Board.

2. In the CRT and NR zones, the following additional Recreation and Entertainment Facility, Indoor (Capacity up to 1,000 Persons) uses are permitted: bowling alley and theater.

3. In the CRT and NR zones, the following uses, as allowed in the underlying zone, are allowed in the Overlay zone only if the use does not abut or confront land in a Residential Detached zone:

- a. Car Wash;
- b. Filling Station;
- c. Funeral Home, Undertaker;
- d. Light Vehicle Sales and Rental (Indoor);
- e. Light Vehicle Sales and Rental (Outdoor);
- f. Repair (Major); and

g. Repair (Minor).

4. In the NR zone, the following additional uses are permitted:

- a. Clinic (More than 4 Medical Practitioners)
- b. Cultural Institutions
- c. Research and Development
- d. Artisan Manufacturing and Production

C. Development Standards

1. The maximum building height is 30 feet; however, the Planning Board may allow a building height:
 - a. up to 42 feet for commercial development, and
 - b. up to 50 feet to accommodate residential development if the Planning Board finds that such buildings are compatible with the neighborhood and substantially conform with the intent of the applicable master plan.
2. Household Living uses must meet the development standards of the underlying zone but the required open space may be adjusted to assure compatibility of uses, or to provide adequate area to accommodate housing, if appropriate.
3. In the NR zone, surface parking must be behind front building line.

D. Site Plan

1. Site plan approval under Section 7.3.4 is required for:
 - a. new construction;
 - b. any addition, reconstruction, or exterior alteration to a building that changes the gross floor area by more than 1,000 square feet;
 - c. an expansion of a building by 1,000 square feet or less if the building was existing on the effective date of the Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone and was a conforming building on that date, but that does not conform to the standards of the Overlay zone;
 - d. a waiver of more than 50% of the off-street parking requirements under Division 6.2;
 - e. conversion of an existing structure to residential use; or
 - f. if required under Section 7.3.4.A.8.

2. During site plan review, the Planning Board may:
 - a. waive the requirements for parking setbacks and numbers of spaces where it finds that such waivers will accomplish the goals of the master plan including revitalization, enhancing the pedestrian environment and encouraging the use of transit;
 - b. waive the building setbacks in the NR zone;
 - c. where recommended in the master plan, allow direct pedestrian access for all uses from the exterior of a structure in the EOF or CRT zone; and
 - d. reduce building setbacks to accomplish master plan objectives.
3. For any addition, reconstruction, or alteration that changes a building by less than 1,000 square feet that does not require site plan approval under Section 4.9.12.D.1.c, there will be a review of the building permit by the Planning Board or its designee to determine compliance with master plan recommendations and the provisions of this Overlay zone. If an existing building is located on the site or on an adjacent property, the minimum setback of the zone may be reduced to conform to the existing setback on the site or on the adjacent property.

E. Existing Buildings and Uses

Any use or building existing on the effective date of the Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone that was a conforming use or building on that date, but that does not conform to the standards of the Overlay zone, may continue as a conforming use or building and may be rebuilt, repaired, or reconstructed. Any such building or use may expand up to 1,000 square feet with site plan approval under Section 7.3.4.

Current Zone	Height and Density	Development or Diagrammatic Plan Required	Green Area	Proposed Zone	Translation Height and Density	Comments
C-T	24' or 35' 0.5 FAR	No	10%	CRN	35' 0.5 FAR	
O-M	60' or 75' 1.5 FAR	No	10-15%	EOF	60' or 75' 1.5 FAR	
C-P	No height (when a 300' from residential) No FAR	No	40%	EOF	150' 1.5 FAR	Development plan not required. Used site plan approvals and master plan recommendations for guidance.
C-3	42' or 84' for auto mall recommended in mp No FAR	No	10%	GR	45' or 85' 1.5 FAR	1.5 FAR chosen as it is sufficient to accommodate existing development
H-M	160' 1.0 FAR	No	45%	CR	160' 1.0 FAR	
TS-R	Height set at site plan 2.5 FAR	Yes	10-35% (open space)	CR	All custom translations	Because height is set through site plan review, and development plans are required – development plans and site plan approvals used to set height and density
TS-M	No height 3.0 FAR	Yes	10-35% (open space)	CR	All custom translations	Because there is no limitation on height, and a development plan is required – development plans and site plan approvals used to set height and density
MXN	No height 0.3 FAR	Yes	50%	CRT	All custom translations	Because there is no limitation on height, and a diagrammatic plan is required – the diagrammatic plan was used to set height and density
MXPD	No height 0.75 FAR commercial 2.50 FAR residential	Yes	40-50%	CRT	All custom translations	Because there is no limitation on height, and a development plan is required – development plans and site plan approvals used to set height and density
I-3	100' 0.6 FAR	No	35%	EOF	100' 0.75 FAR	
RS	50' 0.15 FAR	No	n/a	IM	50' 0.25 FAR	

LF

Zyontz, Jeffrey

From: Robert Kaufman [rkaufman@mncbia.org]
Sent: Thursday, June 05, 2014 9:23 AM
To: Floreen's Office, Councilmember; Elrich's Office, Councilmember; Leventhal's Office, Councilmember; Zyontz, Jeffrey
Cc: Dunn, Pamela; Wright, Gwen; Rose Krasnow; William Kominers; Jody Kline; Soo Lee-Cho; Orens, Stephen J.; Timothy Dugan; Larry Gordon; JRussel@rodgers.com; Clark Wagner; Kelly Grudziecki; dswenson@mncbia.org; Joshua C. Sloan
Subject: DMA Application G-956 Work Session



June 5, 2014

Planning, Housing and Economic Development Committee of the Montgomery County Council

RE: District Map Amendment Application G-956,
PHED Work Session #1;
Zoning Conversion Practices

Dear Ms. Floreen and Messrs. Elrich and Leventhal,

At the scheduled Work Session (June 9) on the DMA G-956, the Maryland National Capital Building Industry Association requests you review and discuss the practices employed in assigning new zoning classifications to certain properties whose zoning is proposed to be converted by DMA G-956 to a new zone, some of which have been established by Zoning Ordinance Text Amendment No. 13-04.

In particular, a number of our members have brought attention to the fact that properties currently with a floating zone classification as the result of a local map amendment application are being proposed in Application No. G-956 for a new zoning classification that is representative not of the maximum density or height of the zone presently carried by the property but, rather, a zone that is consistent with the form of development that the District Council approved as part of the original local map amendment, or subsequent development plan amendment, which is often the same as is actually constructed on the property.

As an example from one of the more exaggerated situations brought to our attention, an Association member owns a property rezoned to the TS-M zone in 1978 (G-7) (with a subsequent development plan amendment in 1983 to add additional building area). The TS-M zone allows for a density of 3.0 FAR and has no prescribed height limit. The "Zoning Translation" tables relied on to assign new zoning classifications show that the appropriate "conversion" of the TS-M zone would be to the "CR formula." Accordingly, DMA G-956 initially recommended a new zoning classification for the subject property of CR-3.0, C-2.5, R-2.5, H-200 T. On or about March 3, 2014, the zoning recommendation contained in G-956 was revised to CR-1.5, C-1.5, R-0.25, H-80 T based on the stated justification that "... staff was instructed to translate this zone based on the approvals on the site." The property owner met with staff at MNCPPC to explain that in 1978 and in 1983 the owner only sought approval for what it thought that the market could support at the time and that it did not intend to relinquish any development potential as was occurring by the effective "downzoning" of the property to a CR 1.5 density. In response, staff reiterated that direction received from the PHED Committee was to place a zoning classification on the property that was the most approximate to the development approvals for the property granted by the District Council in the past. And, furthermore, staff advised the property owner that the zoning recommended in DMA G-956 would likely be modified again to assign a base density of CR-0.75 to the property to be consistent with the fact that the property owner had received approval for, and had constructed, only approximately 0.6

FAR of the maximum square footage permitted to be built in the TS-M zone changed recently by staff published just yesterday .

MNCBIA asks that the PHED Committee re-evaluate and abolish the practice described above as it is inconsistent with what the industry and our members was told would be the proper method of conversion to the CR zone, or to the new zones created by ZTA 13-04; and also because this method of assigning new zones has the potential of severely impairing the value of the underlying land and putting our members at risk of being in default on their financing agreements, terms and conditions including mortgage loans.

Association members who have monitored the Committee's activities, or are otherwise familiar with the incremental decisions made by PHED during a review of the DMA and ZTA 13-04, believe that the guidance from the PHED Committee regarding heights and densities that exceeded Master Plan recommendations has "morphed" into a practice of converting zoning of properties not based on the maximum development envelope allowed under the current zoning but, rather, based on the amount of development approved for a site to date and that such a practice must be reversed.

Staff of MNCPPC may have extended the guidance given by the PHED Committee to staff to rely on the "Council's approvals" when considering zoning for properties that exceed the density or height of the zone in which they are presently located. We believe that the intent of the PHED Committee was to encourage the potential development of properties in keeping with past council actions upon conversion to a new zone based on the fact that a property owner had not yet elected to take advantage of the maximum development potential of their respective properties. However, Staff has emphatically stated that its actions are in accordance with specific instructions from the PHED Committee.

Staff of MNCPPC acknowledged that the guidance which it must follow may have a negative impact on a property. Staff thereby suggested that the lost development potential can be restored or recovered through a floating zone application. That suggestion, unfortunately, is like "rubbing salt in a wound." Our members do not believe that they should have to go through a self-initiated rezoning effort merely to recapture development potential that they feel never should have lost.

Please note that we are not challenging the practice of assigning a zone to a property with a lesser development potential than permitted under the current zone if a) the applicable master plan contained a development restriction, or b) the local map amendment and/or development plan included binding elements that limited development potential to less than what is permitted in by the zone. The Association does not object to the provisions of Section 59.7.7.1.B.5 which carries over any binding elements from a development plan or schematic development plan and makes them enforceable through the sketch plan and site plan review process. But, we believe that the full development potential of a current zone should remain intact upon conversion and should not be reduced merely because a property owner has not yet elected to seek development approvals up to the maximum allowed by the zone.

In summary, we believe that there has been an overreach by MNCPPC staff of directions from the PHED Committee that has serious consequences for our members. MNCBIA requests that at the June 9 work session, the zoning conversion practice described herein be discussed and that staff of MNCPPC be instructed to revise zoning recommendations contained in the DMA G-956 to be consistent with the development envelope permitted in the zone which is being converted rather than based on development approvals secured to date for individual properties.

Members of our Association will be present at your June 9 work session and are available should we be invited to participate in your discussion on this subject.

Thank you for your consideration of these comments.

S. Robert Kaufman
Vice President, Government Affairs

Law Offices Of
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JSKLINE@MMCANBY.COM

May 5, 2014

Ms. Pam Dunn
Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD

RE: DMA G-956; Zoning Recommendations for "The Grove" Property,
Southwest Quadrant of Shady Grove Road and Maryland Route 355

Dear Pam:

In anticipation of our meeting on Wednesday, May 7th, at 11:00 a.m., we wanted to give you something to consider before the meeting.

We understand that the PHED Committee instructed you and your team to set zoning recommendations for properties based on their "built" density rather than their "permitted" density as allowed under the properties' underlying zone. In the case of our client's property, that policy resulted in the recommended zoning in DMA G-956 being converted from CR 3.0, the permitted density under the underlying TS-M Zoning to the CR 1.5 because that was roughly equivalent to the amount of density that has been constructed on the property to date that is reflected on the approved development plan for the property.

But we wonder if the policy isn't a bit of an over-extension of the situation that concerned Pat Baptiste and her Chevy Chase neighbors when they argued that the development on some of the properties in the Chevy Chase area were less than what was permitted under the underlying zones because of strict binding elements negotiated through the rezoning phase that resulted in, in the neighbor's point of view, an acceptable level of development at less than what the underlying zone would have allowed. But, it is one thing when you have a binding element in a rezoning application and it is a different situation when the property owner has simply not yet taken advantage of greater density provided in the underlying zone.

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My client's provided to me a very appropriate analogy. In the case of the APEX building at 7272 Wisconsin Avenue, the present zoning recommendations in DMA G-956 recommended that the CBD-2 property to be zoned in the CR 5.0, C-4.0, R-4.75, H-145 T zone. That zoning classification is the logical conversion or equivalent of the CBD-2 zoning currently existing on the property.

Yet we know, because of my client's familiarity with the property, that the Apex Building is constructed at only a 2.0 FAR regardless of what the CBD-2 or CR-5.0 zoning would allow. To be consistent, the APEX building should have been recommended for a CR 2.0 FAR, consistent with its existing density. We recognize that the policy directive given to you and your colleagues by the PHED Committee was intended to deal with floating zones, yet there is no real functional difference between an increase in density granted by the County Council through a development plan amendment application or by the Planning Board through a project plan (or sketch plan) amendment in the case of a "non-floating" zone. In either case, there is a discretionary decision made by the appropriate body – the County Council in the case of DPAs and the Planning Board in the case of project plan/sketch plan amendments – that must be secured before a property owner can construct more square footage than is shown on the respective approved base plan.

In summary, shouldn't a situation where a property owner has elected not to avail itself of the maximum density permitted in the underlying zone be treated differently than a case where the maximum density has been set by specific development standard limitations, normally the result of contested cases?

We look forward to discussing this rhetorical question with you in more detail at Wednesday's meeting.

Sincerely yours,

MILLER, MILLER & CANBY

A stylized, handwritten signature in black ink that reads "Jody". The letters are bold and somewhat irregular, with a horizontal line above the "y".

Jody S. Kline

JSK/cdp

cc: Matt Johnson
Bob Eisinger
Rob Eisinger
Pete McLaughlin
Tom Fauquier
Damon Orobona, Esq.

Mabie, Susan

From: Zyontz, Jeffrey
Sent: Tuesday, June 03, 2014 2:25 PM
To: Mabie, Susan
Cc: 'Dunn, Pamela'
Subject: FW: CCCFH issues on remapping the Westbard Sector

Susan, Please add this to the DMA file.

Am...any response that I should put in my memo?

Jeff Zyontz
Legislative Attorney
Montgomery County Council
240 777 7896

From: bfreund@issits.com [mailto:bfreund@issits.com] **On Behalf Of** Bill Freund
Sent: Tuesday, June 03, 2014 2:21 PM
To: Zyontz, Jeffrey
Cc: Robert Cope
Subject: Fwd: CCCFH issues on remapping the Westbard Sector

Dear Mr. Zyontz,

This letter is about some concerns we have with the zoning conversion map in the Westbard area. I am writing you on behalf of the Citizens Coordinating Committee on Friendship Heights, which has been active in monitoring and shaping development in our area for decades, and its' River Road-Westbard Committee. We represent 18 communities in the area.

Last week our Committee met with Planning Department staff who were very helpful in explaining the conversion of zones. However, we continue to have several major concerns. First, the remapping process is supposed to retain the FAR, densities, and heights specified in current master plans. Adjustments, if any, are to be made through sector or master plan reviews. Despite the planning staff's best efforts, this guiding principle has not been completely followed in converting the current C-4 zones in the Westbard Sector. Specifically, we believe using the CRT zone as a replacement for the C-4 zone inadvertently represents a significant "back door" change in the current Westbard Sector zones by increasing the amount of development and its height.

The design principles used to codify the 1982 Westbard Sector plan called for neighborhood focused businesses and for low structures to avoid creating a "canyon effect" on River Road. To ensure this outcome, a special zone—C-4—was created for the plan. It had a 30 foot height limit and .25 FAR. The zoning conversion along River Road changes the C-4 zone to CRT, which is described in the Intent as being "for small downtown, mixed use, pedestrian-oriented centers and transitional edges" and has higher

imits of 40 feet and .75 FAR. So, the new proposed zone is "downtown focused" rather than "neighborhood focused". The area near River Road (from Ridgefield to Little Falls Parkway) is residential, including single family homes, so it seems especially important to maintain the neighborhood focus. It seems like the CRN zone, which has a height of 30 feet and .25 FAR, is more consistent with the current zone and the adjacent residential character.

Another concern is the conversion along Butler Road. The current I-1 zone has a height of 42 feet and the conversion to IM has a height of 50 feet. Why should the height be increased under the zoning map conversion? Higher structures will overshadow Little Falls Parkway and potentially change a park-like setting to one with building roofs. As a final example, why switch the Westbard Shopping Center's average height limit of 30' to a NR-1.0 with a 45' height limit?

We realize that you have many things to consider over these next weeks. We think you in advance for your consideration.



William H. Freund, Chairman
Citizens Coordinating Committee on Friendship Heights
5807 Devonshire Drive
Bethesda, MD 20816
301-229-0799 (H)
301-706-7388 (C)

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Greater Colesville Citizens Association
PO Box 4087
Colesville, MD 20914
April 13, 2014

Montgomery County Council
Attn: Craig Rice, President
100 Maryland Ave
Rockville, MD 20850

Re: District Map Amendment associated with Zoning Code Rewrite

Dear Council President Rice:

The Greater Colesville Citizens Association (GCCA) Board met on April 5. The major topic of discussion was the proposed application of the new commercial zones in Colesville. Pam Dunn and Matt Johnson, of the Planning Department, attended the meeting at our request to help us understand the change in the commercial zoning and the thinking behind the proposed commercial zones. We considered the commercial zoning in the seven areas of Colesville as listed in the attached table.

Presently, all the commercial properties are zoned C-1, except for one property zoned C-T. Our focus is on the C-1 zoned land and not the C-T zoned land. While we accepted most of the proposed zoning for the C-1 land, GCCA requests changes for two properties identified in bold in the table and shown in the attached figures. The changes relate to two small single owner properties: the 7-11 and the Sunoco gas station. The zoning for both of these properties is different and higher than the other adjoining commercial properties. We feel that all the properties that were currently zoned C-1 in a contiguous area need to be the same zone to allow future possible assembly of individual properties and the creation of a comprehensive redevelopment plan for them.

Therefore, GCCA requests the zoning on the two properties be NR-1.0; H-45 and CRN-0.5; C-0.5, R-0.25, H-35, respectively, as shown in bold in the table.

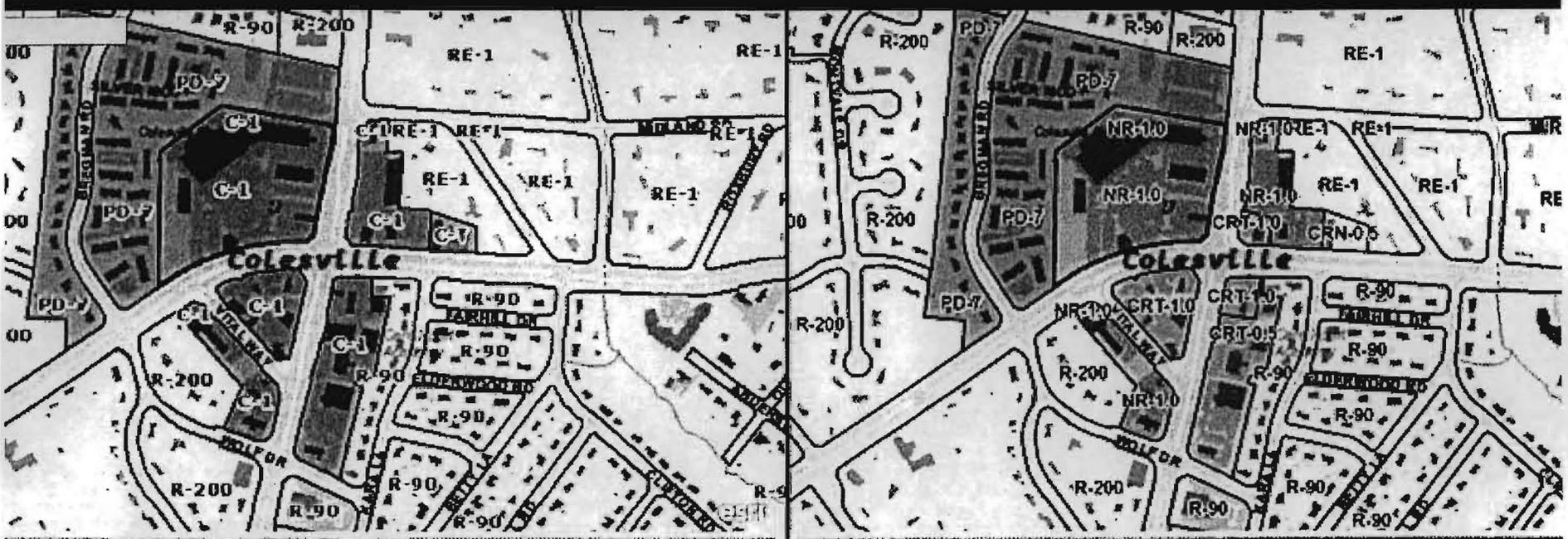
Thank you for considering our request.

Sincerely

Daniel L. Wilhelm
GCCA President

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Area	Existing Zoning	Previously Proposed Zoning	GCCA Recommended Zoning
NW Quad New Hampshire & Randolph	C-1	NR-1.0; H-45	NR1.0, H-45
NE Quad New Hampshire & Randolph	C-1	NR-1.0; H-45	NR-1.0; H-45
	C-T	CRT-1.0; C-0.75, R-0.5, H-45 (7-11 Store) CRN-0.5; C-0.5, R-0.25, H-35	NR-1.0; H-45 CRN-0.5; C-0.5, R-0.25, H-35
SE Quad New Hampshire & Randolph	C-1	CRT-1.0; C-0.75, R-0.5, H-45 (Sunoco gas station) CRT-0.5; C-0.5, R-0.25, H-35	CRT-0.5; C-0.5, R-0.25, H-35 CRT-0.5; C-0.5, R-0.25, H-35
SW Quad New Hampshire & Randolph	C-1	NR-1.0; H-45 CRT-1.0; C-0.75, R-0.5, H-45	NR-1.0; H-45 CRT-1.0; C-0.75, R-0.5, H-45
West side of New Hampshire at ICC (gas station)	C-1	NR-1.0; H-45	NR-1.0; H-45
West side of New Hampshire at Thomas Dr (Meadowood strip mall)	C-1	NR-1.0; H-45	NR-1.0; H-45
East side of New Hampshire at Hollywood (Two small buildings)	C-1	NR-1.0; H-45	NR-1.0; H-45

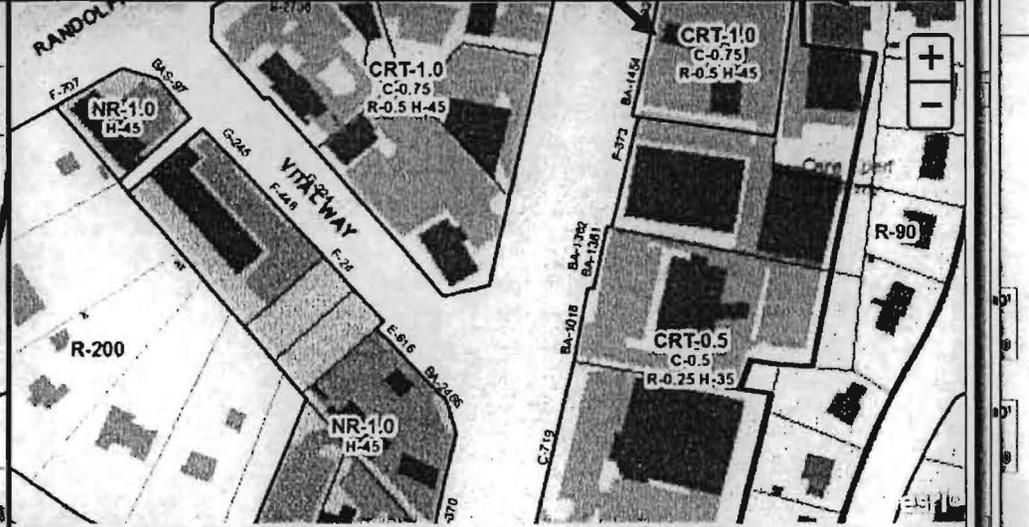
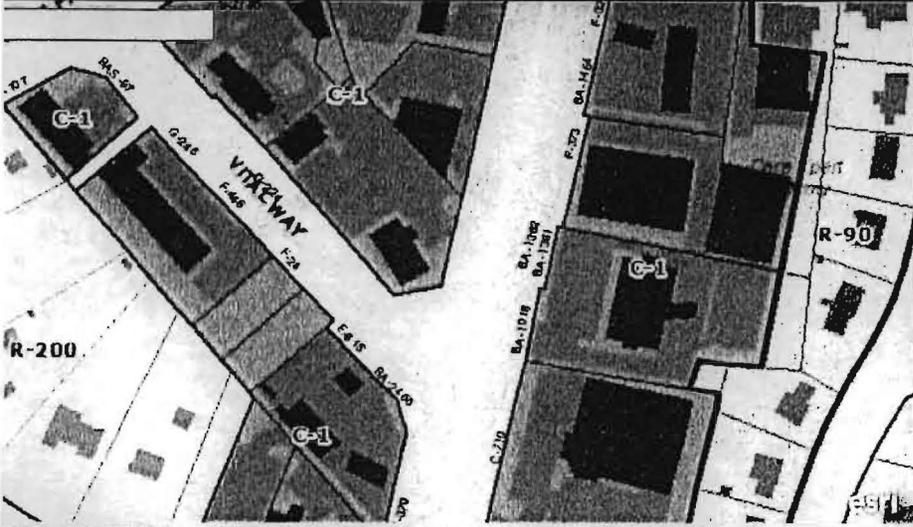


Standard Method of Development

C-1 (Existing)	
Area	Area
Area Requirement	Max site 15 acres
Height	Height
Max Height	35' - 45'
Placement	Setbacks
From Street	10' ¹
From Other Lot Line	Same as requirement for structures in an adjoining

NR (Proposed)		
A. Density ¹	Density	
	Total FAR (max)	1.0
B. Height ¹	Building (max)	
	Building height	45'
C. Coverage	Lot Coverage	
	Lot (max % of lot area)	90% (for select building types)
	Open Space (min)	Varies by building type and lot size, 0% to 20%

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R-90 (Existing Zone)
Residential One-Family

Standard Method of Development for Detached House Building Type	
R-90 (Existing)	
A. Lot	Area
	Lot Area (min) 9,000 SF
	Lot Width (min)
	At front building line 75'

R-90 (Proposed)
Residential Medium Density

Standard Method of Development for Detached House	
R-90 (Proposed)	
A. Lot	Area
	Lot Area (min) 9,000 SF
	Lot Width (min)
	At front building line 75'

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Zyontz, Jeffrey

From: eleanorduckett@comcast.net
Sent: Monday, May 26, 2014 10:10 PM
To: Andrews's Office, Councilmember; Berliner's Office, Councilmember; Elrich's Office, Councilmember; Floreen's Office, Councilmember; Leventhal's Office, Councilmember; Navarro's Office, Councilmember; Rice's Office, Councilmember; Riemer's Office, Councilmember; Branson's Office, Councilmember
Cc: Park & Planning, MCP-chair; Michaelson, Marlene; Zyontz, Jeffrey
Subject: Fwd: New Zoning Code and Wheaton Sector Plan
Attachments: Zoning Code Re-write Wheaton Sector Plan 5-19-2014.docx

Dear Councilmembers,

Kensington View has yet to receive any response to our attached letter dated May 19, 2014. Now that the budget has been completed and the primary elections are coming up, we would like to know how our community will be affected by your votes on the Zoning Ordinance re-write and how the section of the code below may affect us. Not only do we have the properties listed in the attached letter, we also have a whole block in our subdivision that is currently zoned C-2, across Tertiary roads from single family homes, that will convert to CRT-2.0 C-1.5 R-0.75 H-45 when the District Map is done. Since there is no "T" on the end of the string, it appears to us that, based on the section below, a developer would be allowed to develop these properties with greater FAR's and heights greater than 45 feet if they offer more than 12.5 MPDU's.

Sec. 4.7.3.D.6 (c) In a zone without a "T" designation:

- i. If a project exceeds 12.5% MPDUs, the height limit of the applicable zone and master plan does not apply to the extent required to provide the MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.
- ii. For a project providing less than 15% MPDUs, the gross floor area of any MPDUs provided above 12.5% is exempt from the calculation of FAR.
- iii. For a project providing a minimum of 15% MPDUs, the gross floor area of all MPDUs provided is exempt from the calculation of FAR.

Please respond as soon as possible. I believe our community should be allowed to understand your votes prior to casting our votes in the upcoming election.

Thank you,

Eleanor Duckett
Acting Chair - Land Use and Zoning Committee
Kensington View Civic Association

The Kensington View community has recently become aware of and is very concerned about changes to Chapter 59 of the Zoning Code. When the Wheaton Sector Plan was completed and the zoning re-write was underway, we were told that the heights and densities in Wheaton were maximums. The center of Wheaton would have heights of 200 feet that would decrease from the center out to the neighborhoods.

The original proposed Chapter 59 stated:

Section 4.5.1 A. Density and Height Limits

“Density and height limits for any specific Commercial/Residential zone are established on the zoning map under Sec. 2.1.6 A 4.”

Section 2.1.6 A 3

“The CRN, CRT, and CR zones will be applied on the Zoning Map by showing, for each property classified:

- a. The classification; and
- b. The maximum allowances (total FAR, nonresidential FAR, residential FAR, and height).”

We have since learned that Section 4.5.2 was changed by the County Council with a new “Section C” and Section 4.7.3 was completely changed. The approved Chapter 59, Section 4.5.2.A.2 & 3 now state the numbers in the CR type designations are maximums UNLESS additional FAR’s are allowed under Section 4.5.2.C and Section 4.7.3.D.6.c.

Section 4.5.2. Density and Height Allocation

A. Density and Height Limits

2. Each CRN, CRT, and CR zone classification is followed by a number and a sequence of 3 additional symbols: C, R, and H, each followed by another number where:

- a. The number following the classification is the **maximum** total FAR allowed **unless** additional FAR is allowed under **Section 4.5.2.C** and **Section 4.7.3.D.6.c**;
- b. The number following the C is the maximum nonresidential FAR allowed;
- c. The number following the R is the **maximum** residential FAR allowed **unless** additional residential FAR is allowed under **Section 4.5.2.C** and **Section 4.7.3.D.6.c**; and
- d. The number following the H is the **maximum** building height in feet allowed **unless** additional height is allowed under **Section 4.5.2.C** and **Section 4.7.3.D.6.c**.

3. The following limits apply **unless additional total FAR, residential FAR, or height** is allowed under **Section 4.5.2.C** and **Section 4.7.3.D.6.c**:

Zone	Total FAR (max)	C FAR (max)	R FAR (max)	Height (max)
CRN	0.25 to 1.5	0.00 to 1.5	0.00 to 1.5	25' to 65'
CRT	0.5 to 4.0	0.25 to 3.5	0.25 to 3.5	35' to 150'
CR	0.5 to 8.0	0.25 to 7.5	0.25 to 7.5	35' to 300'

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It was our understanding that Sec. 4.5.2.C was necessary for areas such as the Bethesda CBD which has yet to have the CR zones applied. Recently approved Sector Plans, such as Wheaton and Kensington, had maximum heights and densities applied with the new CR zones and the plans were built with heights and densities that would create a specific urban form with the highest densities and heights in the town center area. Section 4.5.2.C allowed areas such as the Bethesda CBD to increase their heights while still allowing Master Plan guidance. Once their Master Plan was done, the "T" would be removed and the maximums would be on the zoning map.

Section 4.5.2.C. Special Provisions for "T" Zones Translated from Certain Zones Existing Before October 30, 2014

1. These special provisions apply to certain properties rezoned by District Map Amendment to implement this Chapter and are indicated on the zoning map as the zoning classification followed by a T, such as "CR2.0 C1.5 R1.5 H75 T".
2. For Commercial/Residential-zoned properties designated with a T, the following provisions apply:
 - a. Residential density may be increased above the number following the R on the zoning map in proportion to any MPDU density bonus achieved under Chapter 25A for providing more than 12.5% of the residential units as Moderately Priced Dwelling Units (MPDUs).
 - b. Total density may be increased above the number following the zoning classification on the zoning map by an amount equal to the residential density bonus achieved.
 - c. In any case, to achieve a density bonus under Section 4.5.2.C.2, at least one more MPDU than would be required at 12.5% must be provided.
 - d. On a property within a designated central business district **mapped at a height up to 145 feet**, height may be increased above the number following the H on the zoning map by up to 1.5 times if:
 - i. the height is the minimum necessary for any workforce housing units provided based on the floor area provided for workforce housing units divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet, or
 - ii. **additional height is specifically recommended for the provision of MPDUs above 12.5% in an applicable master plan.**
 - e. Property within a designated central business district and not located in a designated density transfer area, is exempt from Section 4.5.2.B.2.d.
 - f. Height on a portion of a building may be increased above the number following the H on the zoning map so long as the average height of the building is no greater than the maximum height allowed by the mapped zone. Average building height is calculated as the sum of the area of each section of the roof having a different height multiplied by that height, divided by the total roof area. Height is measured at the midpoint of each roof section along each frontage.
 - g. Any density or height increases under Section 4.5.2.C requires site plan approval under Section 7.3.4.

Section 4.7.3.D.6 (b) & (c) are of greatest concern to us for the following reasons:

Sec. 4.7.3.D.6 (b) In a zone with a "T" designation, if a project exceeds 12.5% MPDUs, residential density may be increased under Section 4.5.2.C in the

Commercial/Residential zones or under Section 4.6.2.C in the Employment zones.

The center of Bethesda is currently mapped at CR 8.0 C 6.0 R 6.0 H 200 T. Section 4.5.2.C states that a "property within a designated business district mapped at a height up to 145 feet, height may be increased above the H on the zoning map" for MPDU's if "additional height is specifically recommended for the provision of MPDU's above 12.5% in an applicable Master Plan." Since Bethesda has a "T" on the map, the 200 foot heights would not be increased.

Wheaton does not have a "T" designation, so this section applies:

Sec. 4.7.3.D.6 (c) In a zone without a "T" designation:

- i. If a project exceeds 12.5% MPDUs, the height limit of the applicable zone and master plan does not apply to the extent required to provide the MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.
- ii. For a project providing less than 15% MPDUs, the gross floor area of any MPDUs provided above 12.5% is exempt from the calculation of FAR.
- iii. For a project providing a minimum of 15% MPDUs, the gross floor area of all MPDUs provided is exempt from the calculation of FAR.

The Wheaton Sector Plan was approved to have the highest densities and heights at the Metro center. For our community, certain properties were assigned CR zones and the heights could have a direct impact on our single family homes. Our community agreed to and the County Council approved this Sector Plan with the listed maximum heights/densities and language that would protect our community. Sec. 4.7.3.D.6(c)(i) now throws the plan out based on the number of MPDU's provided and we have no idea how a zone or zoning code that was created for simplicity will interpret the heights under this section (i). This whole Section 4.7.3.D.6 (c) is especially troublesome because of the Ambassador. The Ambassador is owned by HOC and they are currently looking for a private developer. The property is currently zoned at CR 5.0 C 4.5 R 4.5 H 130. The recently approved Wheaton Sector Plan states on Page 57:

Block C

- Rezone the Ambassador Building site (lot 2) and Parcel 1 from C-2 to CR 5.0: C 4.5, R 4.5, H 130 to provide a better transition and relationship to the Core District's 6.0 FAR and maximum building height of 200 feet. **This maximum height will allow a landmark structure at the intersection. (Emphasis added by KVCA).**

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With this new section (i), it would be beneficial to our community if the Councilmembers that approved this addition to the zoning code can explain:

- ***the new heights on the Ambassador if it redevelops as hoped***
- ***why Wheaton could have heights greater than Bethesda***
- ***the new plan for Wheaton since the language in the Sector Plan does not apply if any developer adds more than 12.5% MPDU's***
- ***how the same County Council could approve a plan with language stating that the zoning map has maximums and then, two years later, approve a zoning document that, under the guise of simplicity, completely removes the language of the plan based on the number of MPDU's***

Other examples of the language in the recently approved Wheaton Sector Plan are listed below for your convenience. Thank you for your time and we hope to receive the explanations requested above.

***Eleanor Duckett
Acting Chair – Land Use and Zoning Committee
Kensington View Civic Association
May 19, 2014***

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Wheaton Sector Plan – approved and adopted January 2012

Page 35: *The heights and densities decrease closer to the single-family residential communities surrounding Wheaton's commercial areas (emphasis added by KVCA)* and no change in zoning is recommended for the developed low-density stable residential communities that surround the more dense central areas.

Page 40:

Lindsay Ford: CR 3.0 C 2.5 R 2.5 H 100

Ambassador: CR 5.0 C 4.5 R 4.5 H 130

McDonald's: CR 2.0 C 1.5 R 1.5 H 75

Westfield: CR 6.0 C 5.5 R 5.5 H 200

Page 53: Westfield Wheaton Mall site and Block D

• Rezone the portion of the property shown on Figure 4 (Parcels 5, 6, 7, 8, part of Parcel 4, and a portion of Parcel 10), along Veirs Mill Road, to CR 6.0, C 5.5, R 5.5, H 200, ***transitioning the maximum building height to 75 feet toward the ring road. (Emphasis added by KVCA)*** This zoning encourages mixed-use residential and office development at the same density and height as the Core. Increased height and density in this location will encourage office and residential development and allow the Mall to be integrated into the center of the downtown.

Confirm the existing C-2 zoning on the remainder of the site (Parcels 3 and 10). Buildings of appropriate heights should also be located along University Boulevard West to be compatible with surrounding uses.

Page 55: Kensington View/Wheaton Hills District

This district consists of low-scale residential neighborhoods composed of post-war houses. These neighborhoods are edged with some professional offices, retail, and service uses along University Boulevard West and Veirs Mill Road. The district will continue to be primarily residential with office and retail along the two major roads. ***No change in zoning is recommended for the existing, single-family residential area, and it is critical that new uses adjacent to, or across the street from, existing houses are carefully designed to be compatible in scale and character with the existing residential development. (Emphasis added by KVCA)***

The Plan envisions two new, low- to moderately-scaled mixed-use developments along Veirs Mill Road on Lindsay Ford properties, flanking the western entrance to the CBD. Pedestrian connections will link these areas to the Core District and to existing neighborhoods. Developments along University Boulevard West will continue to be a mix of old and new in a variety of building types and heights. ***The Plan encourages higher buildings at the University Boulevard West intersections with Veirs Mill Road, Grandview Avenue, and Georgia Avenue. Redevelopment adjacent to R-60 zoned neighborhoods should be compatible with the existing low-scale character of these residential areas. (Emphasis added by KVCA)***

Page 57: Block C

64

- Rezone the Ambassador Building site (lot 2) and Parcel 1 from C-2 to CR 5.0: C 4.5, R 4.5, H 130 to provide a better transition and relationship to the Core District's 6.0 FAR and maximum building height of 200 feet. ***This maximum height will allow a landmark structure at the intersection. (Emphasis added by KVCA).***

Page 57: Block F

Block F contains a car dealership, retail, and residential uses. Lots 12 and 13 are currently zoned R-60, lot 11 is zoned C-T and the rest of the block is zoned C-2. The Plan recommends rezoning the car dealership property to create higher and denser mixed-use development (office or residential) near the corner of Veirs Mill Road and University Boulevard West. A through-block connection between Veirs Mill Road and East Avenue is desirable at this location (see also text under Pedestrian Circulation, first bullet on page 64). For properties recommended for CRN zoning along the East Avenue frontage of the block, residential or professional townhouses would be more compatible with the single-family houses across East Avenue than other commercial uses. Any commercial development along East Avenue must have a residential appearance.

If the car dealership properties are developed as one development, low-scale uses should be placed along East Avenue, with larger commercial uses and mixed-use development along Veirs Mill Road. ***Any adverse impacts of the recommended 100-foot maximum building height along the Veirs Mill Road side of the block should be carefully analyzed during the redevelopment process to make sure that higher building masses are placed away from the East Avenue frontage, with appropriate transition in building heights from the Veirs Mill Road side to the maximum building height of 45 feet along East Avenue. The Planning Board may limit height to less than allowed by the zone to achieve compatibility. (Emphasis added by KVCA)***

- Rezone lots 7, 9, and 10 from C-2 to CRN 1.5, C 0.25, R 1.5, H 45.
- Rezone lot 11 from C-T to CRN 1.5, C 0.25, R 1.5, H 45.
- Rezone lots 12 and 13 from R-60 to CRN 1.5, C 0.25, R 1.5, H 45.
- Rezone Parcel 14 and lot 16 from C-2 to CR 2.0, C 1.5, R 1.5, H 75. Provide appropriate transition from higher building height along the University Boulevard West frontage to the rear of the property along East Avenue to mitigate any adverse visual impacts on the single-family neighborhood to the west. The Planning Board must evaluate the compatibility with the adjacent residential neighborhood at the time of development and may limit the height on the property to less than 75 feet to achieve compatibility.
- Rezone the Lindsay Ford dealership property, Parcel 282, from C-2 to CR 3.0, C 2.5, R 2.5, H 100 to encourage mixed-use residential development.

From: Rice's Office, Councilmember
Sent: Wednesday, June 04, 2014 11:25:47 AM
To: Montgomery County Council
Subject: FW: New Zoning Code, G-956 DMA REQUEST, Zyontz letter - KVCA

From: eleanorduckett@comcast.net [mailto:eleanorduckett@comcast.net]
Sent: Wednesday, June 04, 2014 10:38 AM
To: Andrews's Office, Councilmember; Berliner's Office, Councilmember; Elrich's Office, Councilmember; Floreen's Office, Councilmember; Leventhal's Office, Councilmember; Navarro's Office, Councilmember; Rice's Office, Councilmember; Riemer's Office, Councilmember; Branson's Office, Councilmember
Cc: Zyontz, Jeffrey; Michaelson, Marlene; Park & Planning, MCP-chair
Subject: New Zoning Code, G-956 DMA REQUEST, Zyontz letter - KVCA

Dear Councilmembers,

Kensington View Civic Association received the response from Jeff Zyontz below (Thank you, Jeff) and it was our understanding that the Councilmembers were waiting for his response prior to answering our questions/concerns about the Zoning code re-write, Sec. 4.7.3.D.6 (c). With the PHED committee meeting on Monday, June 9, it is important to my community that discussions occur and we receive answers from our Councilmembers prior to the primaries on June 24.

Please accept our attached letter and associated attachment which includes:

- Questions regarding our "New Zoning Code and Wheaton Sector Plan" e-mails in light of Mr. Zyontz response.
- **Request for total deletion of or changes to Sec. 4.7.3.D.6 (c)**
- **Request for POSTPONEMENT of G-956, District Map Amendment**

Thank you in advance for your attention to this matter.

Eleanor Duckett
Acting Chair - Land Use and Zoning Committee
Kensington View Civic Association

From: "Zyontz, Jeff" <Jeff.Zyontz@montgomerycountymd.gov>
To: eleanorduckett@comcast.net
Sent: Friday, May 30, 2014 12:58:51 PM
Subject: FW: Reply to Ms. May 19 email.

Ms. Duckett,

In the course of its work on the Zoning Rewrite, the Council was persuaded that the existing and proposed code did not give sufficient incentives for MPDUs. To that end, it generally allowed increased additional height to the extent required for the floor area taken by the MPDUs in excess of 12.5%. The allowance for additional height did not change the compatibility rules (building setbacks next to one-family residential zones must be 1.5 times the residential set back; at the start of the setback; the height may be no greater than the height allowed in the residential zone with 1 foot increase in height for each additional 1 foot setback thereafter).

The Council's actions with regard to density and MPDUs should be also noted. If the project provides between 12.5% and 15% MPDU, then the floor area required above 12.5% MPDUs is not counted against density. If more than 15% MPDUs are provided then all of the floor area used for MPDUs is not counted against density.

(66)

The Council believes that providing more MPDU enhances the public interest more than the strict adherence to master plan recommended height limits. The provision for property in central business districts which only allows higher buildings for zones with less than 145 feet is a repeat of the current code which was not changed. In light of your comments, and for the sake of consistency, perhaps the additional height should be allowed without regard to the maximum height.

The Council does not expect wholesale use of these MPDU provisions due to the price restrictions on MPDUs and the cost of high-rise construction. This would include Wheaton. If the occasional property such as the Ambassador property exceeds master plan recommended building heights, that is acceptable to the Council.

Jeff Zyontz
Legislative Attorney
Montgomery County Council
240 777 7896

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LINOWES
AND | BLOCHER LLP
ATTORNEYS AT LAW

June 4, 2014

Emily J. Vaias
evaias@linowes-law.com
301.961.5174

**By Email &
Overnight Delivery**

Craig Rice, President
and Members of the Montgomery County Council
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Re: District Map Amendment No. G-956
Kaiser Property in Germantown – Seneca Meadows Corporate Center, Lot 4

Dear President Rice and Councilmembers:

We represent the Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. (“Kaiser”), the owner and operator of several medical clinics and offices throughout Montgomery County. The proposed District Map Amendment (G-956) (the “DMA”), incorrectly downzones Kaiser’s property located along Seneca Meadows Parkway near the I-270/Ridge Road interchange (see attached Tax Map, Exhibit “A”), from the TMX-2 Zone to the CR-1.0 C-0.75 R-0.5 H-145’T. In addition, the Property would be within the Germantown Transit Mixed Use Overlay Zone (see attached Zoning Conversion Map, Exhibit “B”). We request that this error be corrected and that the Property be placed in the CR-2.0 C-2.0 R-0.5 H-145’T to prevent “doing harm” by the DMA.

More specifically, the Property consists of approximately 4.59 acres identified as Lot 4, Block A as shown on Plat No. 22571 (see attached Plat, Exhibit “C”). It was placed in the TMX-2 Zone by the fairly recent Sectional Map Amendment G-887 which implemented the zoning recommendations of the Sector Plan for the Germantown Employment Area, adopted in 2010 (the “Master Plan”). The Master Plan identified the Property as part of the Seneca Meadows property (north of Crystal Rock Tributary) labeled as SM-1 (see attached map and excerpts from the Master Plan, Exhibit “D”). The Master Plan recommended the following with regard to Land Use for the Property:

- “Concentrate mixed-use development at the transit station with an average density of 1.0 FAR on the Seneca Meadows property north of the Crystal Rock Tributary (SM-1). To ensure the area retains an employment profile, develop with a minimum of 70 percent employment uses that include limited street level retail and a maximum of 30 percent residential uses”

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AND **BLOCHER LLP**
ATTORNEYS AT LAW

Craig Rice, President
June 4, 2014
Page 2

- “Rezone portions of Seneca Meadows property (SM-1) from I-3 to TMX-2 to allow a mix of uses at the Seneca Meadows CCT Station.” (Page 67 of Master Plan).

This Master Plan does not establish a cap for the zoning of the Property, and in fact, it recommends the TMX-2 Zone for the Property even with this language about the FAR averaging. Accordingly, the DMA should be modified to reflect the same zoning or at least “do no harm” zoning for the Property that exists today pursuant to the Master Plan and SMA, CR-2.0 C-2.0 R-0.5 H-145’T. Just like with the existing TMX-2 zoning, the new zoning would require compliance with the Master Plan, so the averaging of density would still be considered at the time of Project and Site Plan review.

Thank you for your attention to this matter.

Sincerely,

LINOWES AND BLOCHER LLP



Emily J. Vaias

cc: Ms. Lorena Stranigan
Jeff Zyontz, Esq.

**L&B 3500986v1/06990.0143



**Kaiser
Property**

MILESTONE

CENTER

**MILESTONE
CENTER**

MEADOWBROOK

Exhibit "A"

(K)

(J)

(C)

(A)

(C)

(B)

(B)

(B)

(A)

PARCEL "A"

PARCEL "A"

PARCEL "A"

PARCEL "B"

INTERSTATE
270

70

OUTLOT "D"
New Map Grid
EU42N6277

PARCEL "S"

GLOVERLEAF

SENECA

SHAKESPEARE BOULEVARD

SENECA MEADOWS PARKWAY

OBSERVATION DRIVE

MILESTONE TOWNHOUSES DRIVE

MAJOR DRIVE

SUMMER ROAD

U.S.

SENECA

PARCEL "A"

PARCEL "A"

PARCEL "A"

22.94 Ac.
P825

N823

N907

4.59 Ac.
N045

4.59 Ac.
N045

11.77 Ac.
P125

N150

N145

N340

3

2

1

16

7.56 Ac.
P069

PL.7794	PL.7795	PL.7796	PL.7797	PL.7798	PL.7799	PL.7800	PL.7801	PL.7802	PL.7803	PL.7804	PL.7805	PL.7806	PL.7807	PL.7808	PL.7809	PL.7810	PL.7811	PL.7812	PL.7813	PL.7814	PL.7815	PL.7816	PL.7817	PL.7818	PL.7819	PL.7820	PL.7821	PL.7822	PL.7823	PL.7824	PL.7825	PL.7826	PL.7827	PL.7828	PL.7829	PL.7830	PL.7831	PL.7832	PL.7833	PL.7834	PL.7835	PL.7836	PL.7837	PL.7838	PL.7839	PL.7840	PL.7841	PL.7842	PL.7843	PL.7844	PL.7845	PL.7846	PL.7847	PL.7848	PL.7849	PL.7850	PL.7851	PL.7852	PL.7853	PL.7854	PL.7855	PL.7856	PL.7857	PL.7858	PL.7859	PL.7860	PL.7861	PL.7862	PL.7863	PL.7864	PL.7865	PL.7866	PL.7867	PL.7868	PL.7869	PL.7870	PL.7871	PL.7872	PL.7873	PL.7874	PL.7875	PL.7876	PL.7877	PL.7878	PL.7879	PL.7880	PL.7881	PL.7882	PL.7883	PL.7884	PL.7885	PL.7886	PL.7887	PL.7888	PL.7889	PL.7890	PL.7891	PL.7892	PL.7893	PL.7894	PL.7895	PL.7896	PL.7897	PL.7898	PL.7899	PL.7900
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PARCEL "E"

PARCEL "F"

PARCEL "G"

PARCEL "H"

PARCEL "I"

PARCEL "J"

PARCEL "K"

PARCEL "L"

PARCEL "M"

PARCEL "N"

PARCEL "O"

PARCEL "P"

PARCEL "Q"

PARCEL "R"

PARCEL "S"

PARCEL "T"

PARCEL "U"

PARCEL "V"

PARCEL "W"

PARCEL "X"

PARCEL "Y"

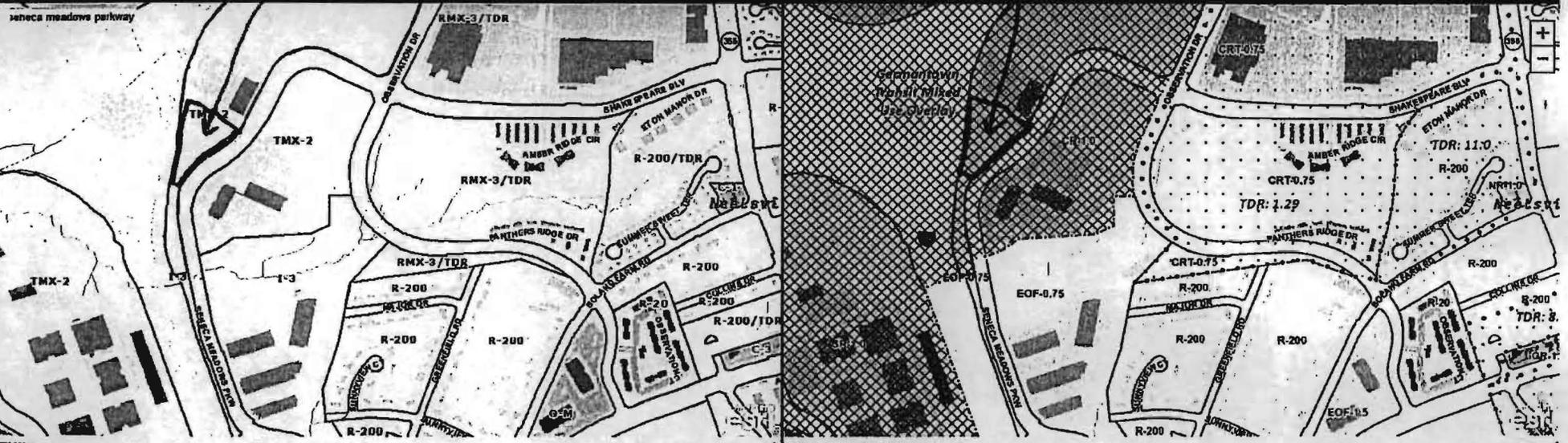
PARCEL "Z"

KAISER PROPERTY

Existing Zoning - February 11, 2014

PHED Proposed Zoning - Dec 18, 2013 | Error Revision June 3, 2014

View underway Master Plans



TMX-2 (Existing Zone)
Transit Mixed-Use

TMX-2 (Existing)			
		STANDARD METHOD	OPTIONAL METHOD
A. Density	Density		
	Maximum Density of Development	0.5	2.0
B. Placement	Setbacks (min)		
	From an adjacent building on a separate lot	15'	Determined at project plan

CR (Proposed Zone)
Commercial Residential

Density in the CR zones is calculated as an allowed floor area ratio (FAR). FAR is the ratio of the total floor area of buildings on a property to the size of that property. Each CR zone has a unique sequence of maximum total FAR, maximum commercial FAR (C), maximum residential FAR (R), and maximum height (H). In most cases, developers must mix residential and non-residential uses to achieve the maximum allowed density.

The densities shown on the map are the maximum achievable densities and heights (except as indicated in the next paragraph). These densities are only achievable through the Optional Method. Standard Method density is set at a maximum of 0.5 FAR.

When a "T" follows the CR formula (example: CR-4.0 C-2.5 R-3.0 H-150 T), it means that development is allowed to achieve an MPDU density bonus as allowed under Chapter 25A. The site may also be eligible for a height bonus for Workforce Housing Units. More information about the "T" provisions can be found in [Sec. 59.4.5.2.C](#).

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LINOWES
AND | BLOCHER LLP
ATTORNEYS AT LAW

June 26, 2014

Stephen Z. Kaufman
301.961.5156
skaufman@linowes-law.com

Heather Dlhopsky
301.961.5270
hdlhopsky@linowes-law.com

VIA EMAIL AND OVERNIGHT MAIL

Mr. Craig Rice, President
and Members of the Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Re: District Map Amendment No. G-956 – Symmetry at Cloverleaf Property

Dear Council President Rice and Members of the County Council:

We represent Symmetry at Cloverleaf LLC (“Symmetry”), owner of the over 20-acre property (the “Property”) located in Germantown at the northwest quadrant of the intersection of Interstate 270 and Father Hurley Boulevard (as shown on the attached tax map). The Property is currently zoned TMX-2, which permits a maximum density of 2 FAR on the Property. District Map Amendment G-956 (the “DMA”) proposes to reduce the density currently permitted under the Property’s zoning by one-half – downzoning the Property from TMX-2 (which permits a 2 FAR) to CR-1.0, C-0.75, R-0.5, H-75T (which permits a 1 FAR). On behalf of Symmetry, we request that the Property’s current density and development rights be restored by rezoning the Property under the DMA to CR-2.0, C-1.50, R-1.0, H-75T.

The Property was rezoned to TMX-2 via Sectional Map Amendment G-887 (the “SMA”), approved by the Montgomery County Council (the “County Council”) on May 18, 2010, which implemented the zoning recommendations in the Germantown Employment Area Sector Plan (the “Sector Plan”), approved and adopted by the County Council in October 2009. The Sector Plan located the Property in the North End District, and recommended the following with regard to the Property:

- Develop the Symmetry/Totah property (NE-1) at an average density of 1.0 FAR and a mix of uses Permit a limited amount of street level retail near transit and along Century Boulevard. Design employment uses and a hotel to take advantage of the site’s visibility from I-270.
- Area NE-1 should be rezoned from the I-3 and TS Zones to the TMX-2 [for the Subject Property] Zone to allow a mix of uses and densities at the Manekin CCT station

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Craig Rice, President

June 26, 2014

Page 2

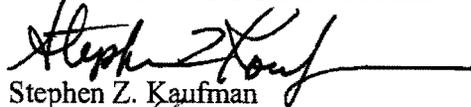
Thus, despite that the Sector Plan contains advisory language regarding the mix of uses and density for the Property, the Sector Plan nevertheless simultaneously recommended that the Property be rezoned to TMX-2, permitting a maximum density of 2 FAR, and the SMA adopted by the County Council shortly thereafter rezoned the Property accordingly. If the County Council at the time, through adoption of the Sector Plan, truly intended to bind development on the Property to a maximum of 1 FAR, the Sector Plan would have recommended rezoning the Property to TMX-1, not TMX-2, and the SMA would not have implemented the rezoning of the Property to TMX-2. As a result, this County Council should not now seek to undo the rezoning that was so recently implemented on the Property by the prior County Council by adopting an arbitrary downzoning of the Property without first undertaking a complete and comprehensive analysis which would normally be the case.

Additionally, there is ample case law that Sector Plan recommendations are just that – recommendations. Sector Plan recommendations are appropriately taken into account at the time that a Property seeks approval for redevelopment, when a finding of substantial compliance with the Sector Plan is required to be made. However, Sector Plan recommendations by themselves do not change the zoning of a given property, and the DMA should not propose to rezone properties on the basis of such recommendations. By rezoning the Property to CR-2.0, C-1.50, R-1.0, H-75T, the County Council will maintain the current zoning and development rights on the Property, and the Sector Plan's recommendations regarding the Property will still be appropriately considered at the time of development applications.

We appreciate your attention to this matter. Please let us know if you have any questions or would like any additional information from us at this time.

Sincerely,

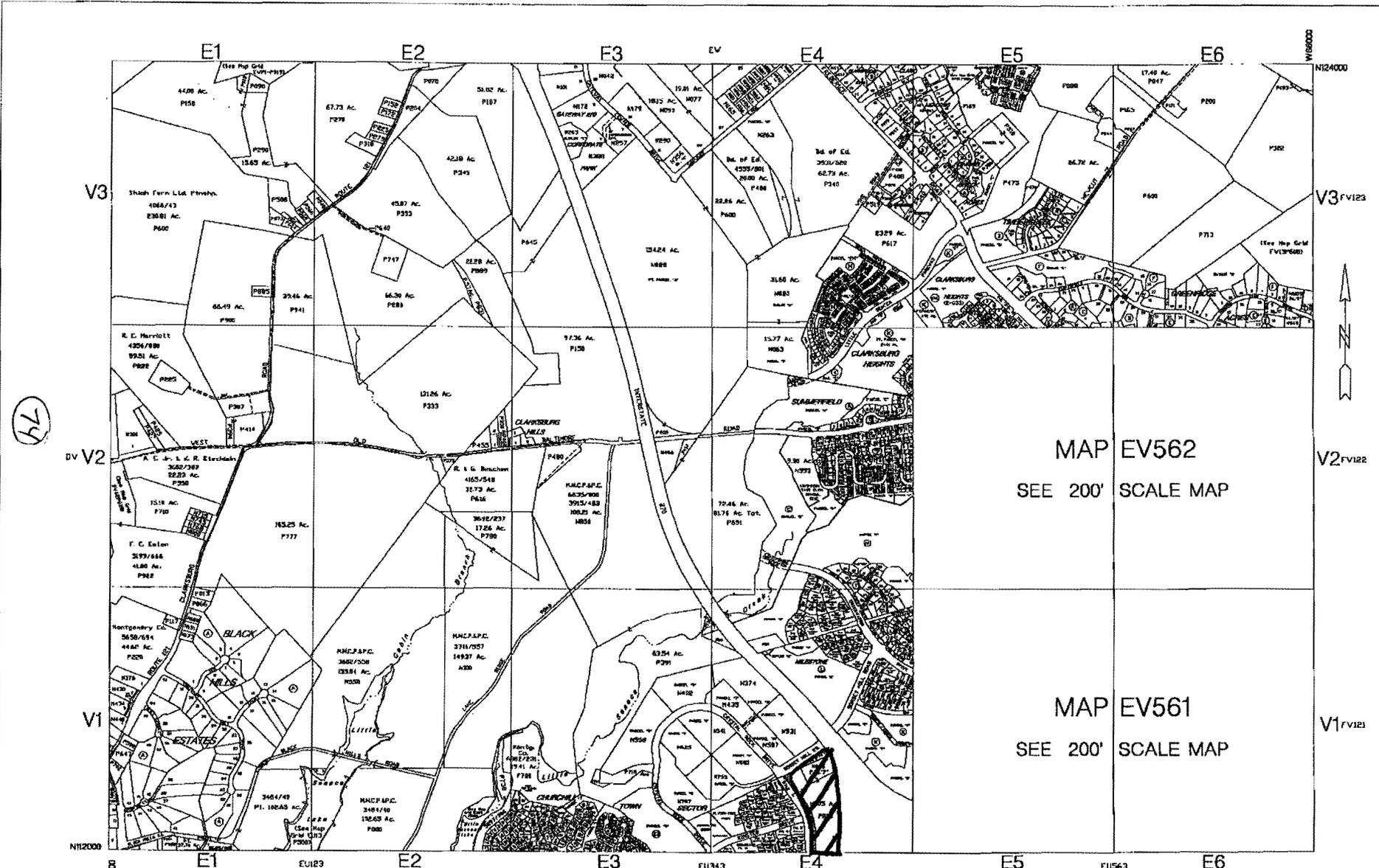
LINOWES AND BLOCHER LLP


Stephen Z. Kaufman


Heather Dlhopsky

Enclosure

cc: Jeff Zyontz, Esq.
Ms. Nicole Totah

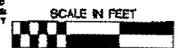


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MAP EV562
SEE 200' SCALE MAP

MAP EV561
SEE 200' SCALE MAP

THAT MAPS ARE PROTECTED BY COPYRIGHT. THEY MAY NOT BE COPIED OR REPRODUCED BY ANY FORM INCLUDING ELECTRONIC MEANS SUCH AS PHOTOCOPYING, SCANNING, VIDEO RECORDING, OR BY ANY MEANS NOW KNOWN OR TO BE INVENTED WITHOUT PERMISSION IN WRITING FROM THE COUNTY AND DEPARTMENT OF PLANNING.

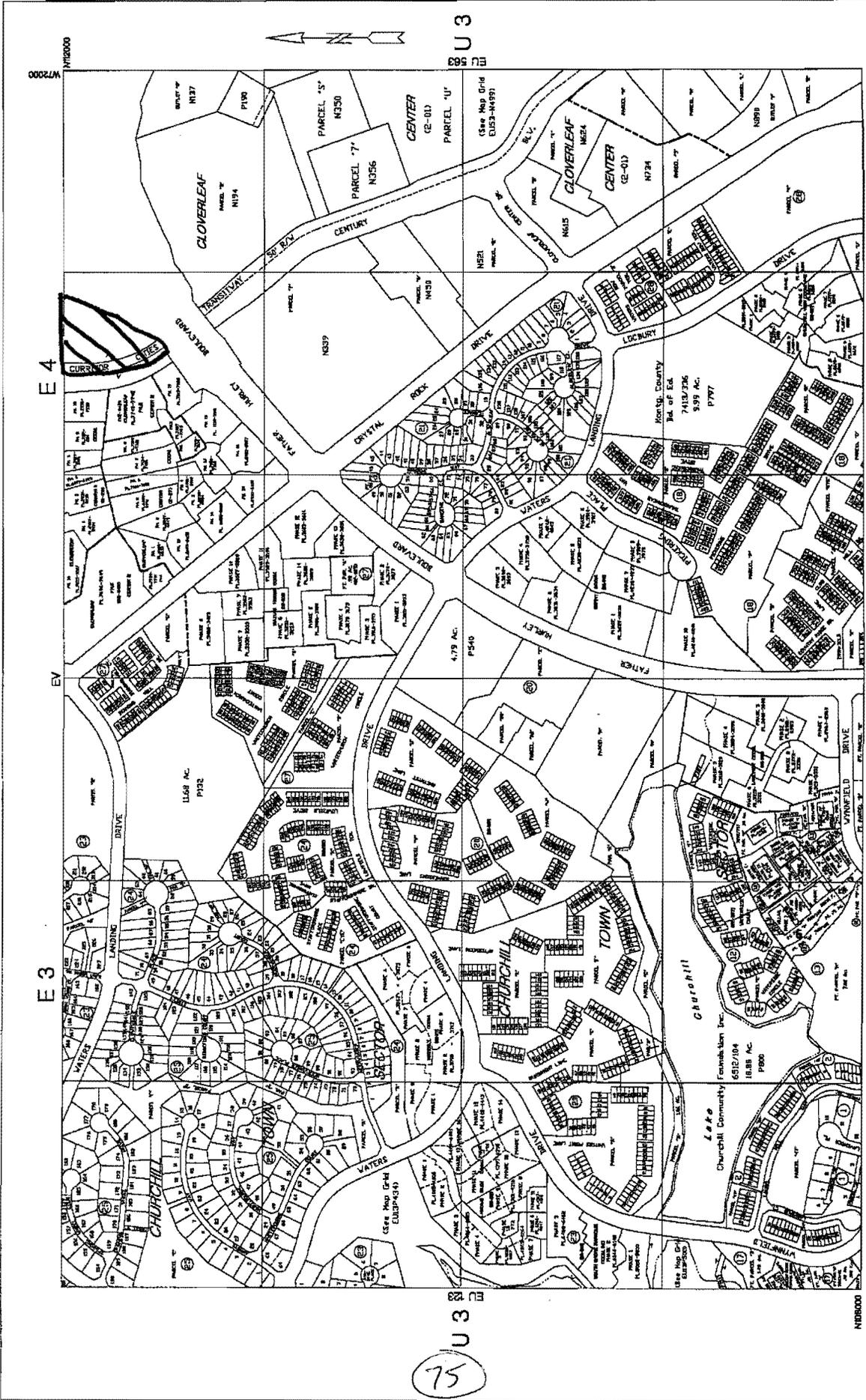


MONTGOMERY COUNTY DEPARTMENT OF PLANNING
PROPERTY MAPS SECTION



MONTGOMERY CO., MARYLAND

MAP EV



MAP EU 343
W/SSC. 228 NW 13
Location: CHURCHILL TOWN

MONTGOMERY CO.,
MARYLAND

<p>UNITS: 1/4 AC. 1/2 AC. 3/4 AC. 1 AC. 1 1/2 AC. 2 AC. 3 AC. 4 AC. 5 AC. 6 AC. 7 AC. 8 AC. 10 AC. 12 AC. 15 AC. 20 AC. 25 AC. 30 AC. 40 AC. 50 AC. 60 AC. 75 AC. 100 AC. 150 AC. 200 AC. 250 AC. 300 AC. 400 AC. 500 AC. 600 AC. 750 AC. 1000 AC.</p>	<p>PLANNED UNIT DEVELOPMENT (PUD) - 1/4 AC. TO 10 AC. (MIN. 10 UNITS PER AC.)</p>	<p>PLANNED UNIT DEVELOPMENT (PUD) - 10 AC. TO 20 AC. (MIN. 10 UNITS PER AC.)</p>	<p>PLANNED UNIT DEVELOPMENT (PUD) - 20 AC. TO 50 AC. (MIN. 10 UNITS PER AC.)</p>	<p>PLANNED UNIT DEVELOPMENT (PUD) - 50 AC. TO 100 AC. (MIN. 10 UNITS PER AC.)</p>	<p>PLANNED UNIT DEVELOPMENT (PUD) - 100 AC. TO 250 AC. (MIN. 10 UNITS PER AC.)</p>	<p>PLANNED UNIT DEVELOPMENT (PUD) - 250 AC. TO 500 AC. (MIN. 10 UNITS PER AC.)</p>	<p>PLANNED UNIT DEVELOPMENT (PUD) - 500 AC. TO 1000 AC. (MIN. 10 UNITS PER AC.)</p>
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THESE MAPS AND ARCHITECTURES OF AGREEMENTS THEREON MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF MONTGOMERY COUNTY PLANNING AND ZONING DEPARTMENT.

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LINOWES
AND | BLOCHER LLP
ATTORNEYS AT LAW

June 27, 2014

Emily J. Vaias
evaias@linowes-law.com
301.961.5174

By Email &
Overnight Delivery

Craig Rice, President
and Members of the Montgomery County Council
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Re: Additional Information related to District Map Amendment No. G-956
Kaiser Property in Germantown – Seneca Meadows Corporate Center, Lot 4, Block A as
shown on Plat No. 22571, 4.59 acres (the “Kaiser Property”)

Dear President Rice and Councilmembers:

As a follow up to our June 4, 2014 letter to you regarding our client, the Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. (“Kaiser”), we respectfully submit that the proposed downzoning of Kaiser’s Property in Germantown, from the currently proposed TMX 2 to the CR-1.0 C-0.75 R-0.5 H-145’T, is contrary to the Sector Plan for the Germantown Employment Area (the “Master Plan”). Further, correcting this error will not require wholesale review of other non-standard conversions proposed by the District Map Amendment (G-956) (the “DMA”), because the language in this Master Plan is unique. Thus, the proper zoning conversion is CR-2.0 C-2.0 R-0.5 H-145’T

Specifically, as we explained previously, this Master Plan uses the term “average” to describe how the density may be distributed among the several properties in the Seneca Meadows area, all zoned TMX 2: “Concentrate mixed-use development at the transit station with an average density of 1.0 FAR on the Seneca Meadows property north of the Crystal Rock Tributary (SM-1).” The Master Plan clearly envisioned some properties with higher densities and some with lower densities, but with no express “cap” or “limit” on development beyond the TMX 2 designation. There are numerous master plans that include caps and limits and if that was the intention, the subject Master Plan would have included this language as well.

In reviewing the non-standard zoning conversions as proposed by the DMA, there are no other planning areas that have this “average density” language, and in fact the others use caps or limits expressly: Bethesda CBD – use of density limits (*see* pages 15, 17, 24, 25 of Bethesda CBD Master Plan Review); Chevy Chase Lake – use of density maximum (*see* page 8 of Chevy Chase Lake Master Plan Review); Damascus – use of density limits (*see* pages 11-14 of Damascus

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Craig Rice, President
June 27, 2014
Page 2

Master Plan Review); Friendship Heights – use of maximum amount of square footage (*see* pages 11-12 of Friendship Heights Master Plan Review); North Bethesda/Garrett Park – use of density development cap (*see* page 9 of North Bethesda/Garrett Park Master Plan Review); Sandy Spring/Ashton – use of density limit (*see* page 11 of Sandy Spring/Ashton Master Plan Review); Shady Grove – use of density and height limits (*see* pages 8-13, 16 of Shady Grove Master Plan Review); Twinbrook – use of density caps (*see* pages 8-11 of Twinbrook Master Plan Review); Woodmont Triangle – use of density limits (*see* pages 8-12, 14 of Woodmont Triangle Master Plan Review).

In addition, the Master Plan language regarding average densities across the various properties would still be applied to all of the properties in this area as part of the regulatory process. Accordingly, the intent and express language of the Master Plan can only be realized if the Kaiser property is zoned to the CR-2.0 C-2.0 R-0.5 H-145'T. Thank you for your careful consideration of this matter.

Sincerely,

LINOWES AND BLOCHER LLP



Emily J. Vaias

cc: Ms. Lorena Stranigan
Indrajit Obeysekere, Esq.
Jeff Zyontz, Esq.

**L&B 3552934v1/06990.0143

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

June 3, 2014

Anne M. Mead
amead@linowes-law.com
301.961.5127

The Honorable Nancy Floreen
Chair, PHED Committee
Montgomery County Council
100 Maryland Avenue
Sixth Floor
Rockville, Maryland 20850

Via E-Mail Delivery

Re: District Map Amendment No. G-956 (the "DMA")

Dear Ms. Floreen:

On behalf of the Thos. Somerville Cos. and its affiliate entity TS Realty, LLC ("Somerville"), we respectfully request a modification to the current version of the DMA for Somerville's three properties located in the "Metro West" and "Metro South" areas of the Shady Grove Sector Plan, adopted and approved March 15, 2006 (the "Sector Plan"). The three Somerville parcels (Parcel Nos. N171, N313 and N388) comprise over 10 acres of undeveloped or industrial use properties located within ¼ mile (N388 is within ½ to ¾ mile) of the Shady Grove Metro Station that were rezoned to TOMX-2/TDR and TOMX-2 pursuant to the recommendations of the Sector Plan (the "Somerville Properties"). As explained below, we request that the Somerville Properties be converted to allow the base residential density of 1.6 FAR and 1.4 FAR in accordance with the specific Sector Plan recommendations in order to maintain the residential development potential envisioned, as well as the consequential Transfer Development Rights ("TDRs") and Moderately Priced Dwelling Units ("MPDUs") in this transit station area.

The Sector Plan specifically recommends a 1.6 FAR and 30-40 dwelling units per acre as the base density for Parcels N171 and N313, and a 1.4 FAR and 25-30 dwelling units per acre for Parcel N388 of the Somerville Properties. However, the current conversion density for the Somerville Properties is reduced to R 1.5 and R 1.25, which we understand is based on a hypothetical standard unit size that is not referenced in the Sector Plan or the TOMX-2/TDR or TOMX-2 zone (or CR zones), and assumes a significant amount of commercial use that may not be viable for such large parcels (and is not required per the Sector Plan or current zone). We simply request that the base residential density that is specifically referenced in the Sector Plan

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The Honorable Nancy Floreen
June 3, 2014
Page 2

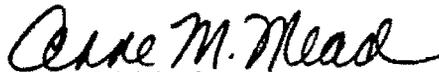
of the 1.6 FAR and the 1.4 FAR be applied to maintain the same residential potential of the Somerville Properties with the DMA, not a lower density based on units per acre.¹

This request is consistent with the Planning, Housing and Economic Development (“PHED”) Committee direction to convert properties consistent with Sector Plan recommendations, as well as with the CR zone public benefit categories that the full District Council just adopted on March 5, 2014 to incentivize larger units through the dwelling unit mix (Sec. 4.7.3.D.3) and larger MPDU units (Sec. 4.7.3.D.6.a.iii) incentives in the “Diversity of Uses and Activities” categories for optional method developments (which is any development over 0.5 FAR for the Somerville Properties). We similarly request that the new TDR overlay for the Somerville properties should be the 20% of the maximum base density of the 1.6 FAR (TDR 1.90) to be consistent with the Sector Plan to realize the TDR and affordable housing potential envisioned in the Sector Plan, not a reduced density based on a limited hypothetical standard unit size.

Thank you for your consideration of our request to preserve the residential development opportunities for the Somerville Properties with the DMA in accordance with the Sector Plan recommendations.

Very truly yours,

LINOWES AND BLOCHER LLP


Anne M. Mead

cc: Jeff Zyontz
Rose Krasnow
Pam Dunn
Matt Johnson
Michael J. McInerney

**L&B 3497786v1/00799.0007

¹ While we had suggested use of a non .25 FAR increment for CR zones that are in the “T” converted classifications as a way to address these Sector Plan recommendations of 1.6 and 1.4 FAR, we understand Planning Staff would prefer higher .25 FAR increments and reliance on the Sector Plan limitations through the development review process (which is consistent with the TOMX-2/TDR and TOMX-2 zoning that exists today).



ideas that work

Attorneys at Law

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Bethesda, MD 20814

Tel. (301) 986-1300
www.lerchearly.com

May 23, 2014

VIA U.S. MAIL and E-MAIL

The Honorable Craig Rice, President
Montgomery County Council
Stella B. Warner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

RE: Fenwick Professional Park -- Rezoning by District Map Amendment No.
G-956

Dear President Rice and Members of the Council:

This letter is written on behalf of LDG, Inc., owner of the property located at 1315 Apple Avenue, known as Lot 116, Block A, in the subdivision known as Lee's 2nd Addition to Silver Spring (Plat Book 34, Plat No. 2250) (the "Property"), to request that the Property be rezoned as part of the adoption of District Map Amendment G-956 (the "DMA") to the CR-5.0, C-4.0, R-4.75, H-145T Zone. The Property is currently zoned CBD-1. The location of the Property is depicted on the tax map excerpt attached as Exhibit "1" and the excerpt from the interactive zoning map, showing the current zoning and the zoning proposed in the DMA, attached as Exhibit "2".

The Property is in Silver Spring, located west of Second Avenue, between Apple Avenue to the south and Fenwick Lane to the north, adjacent to the railroad tracks that run generally parallel to Second Avenue. The balance of the properties on the block (adjacent to the Property) are currently zoned CBD-2. To the south, across Apple Avenue, is the relatively new Maryland District Court Building, zoned CBD-2. Land to the north, across Fenwick Lane, is comprised of three former single-family residential buildings now used for commercial purposes, and, on the site of the former post office, is the new six story Fenwick Station multi-family residential building, all zoned CBD-1.

The Property is shaped like an elongated rectangle, sharing its greatest length with the railroad tracks and the adjoining CBD-2 properties (on the east side). These adjacent properties are already developed with large high rise multi-family buildings owned by the Housing Opportunities Commission ("HOC") (the Elizabeth House at twelve stories, and the Alexander

House at sixteen stories). Taken together, the shape of the HOC buildings (a reversed "C") and the imposing scale of these adjacent buildings, coupled with the nature of the railroad tracks, argues for the Property to provide a similar scale, to reach upward to provide long distance views and separation from the activity at the tracks, especially as the Purple Line begins operations. The adjacent railroad tracks present an active and discordant character. The principal benefit the tracks provide is as a distance separator between any redevelopment on the Property and the existing apartments west across the tracks.

The Property is much more in keeping with the character of the CBD-2 buildings (along the lengthy shared boundary), rather than with the CBD-1 property across Fenwick Lane that is opposite a portion of the Property's narrow frontage on the north side.

The Property is a solitary peninsula of CBD-1 zoning, generally surrounded by a sea of greater intensity, activity, and zoning.

The owner of the Property has been actively pursuing a joint development with the HOC for its CBD-2 properties in the block. During the course of these discussions and in collaborating on designing a joint Optional Method of Development Project, it became apparent that the CBD-1 zoning on the Property was inconsistent with the character of the block and its surrounding area, and that the zoning should be changed.

Rezoning the Property to the proposed zoning "translation zone" for the CBD-2 Zone would better facilitate a future unified development on the entire block and would allow greater density and height along the railroad tracks, where it would have little, if any, impact on the surrounding area. The additional density would create a better opportunity to spread density across the entire block, would provide more flexibility in allocation of density and in the related use and design, and would provide greater potential for a unified mixed-use development with the neighboring HOC properties on the block. Because the joint development is with the HOC, the project will seek to maximize MPDUs and workforce housing units ("WFHUs"). Thus, in addition to greater overall density, consistent zoning on all three properties will allow simpler internal sharing of density, bonus density for maximum MPDUs, and height related to WFHUs.

As demonstrated in the aerial photograph attached as Exhibit "3", development of the Property under the CBD-2 Zone would be consistent with the character and scale of development on the balance of the block and would be appropriate at this location. In fact, Exhibit "3" demonstrates how the adjacent buildings on the CBD-2 properties on the balance of the block dwarf the existing development on the Property. The same adjacent CBD-2 development would continue to dwarf future redevelopment of the Property under the CBD-1 Zone (or its equivalent zone under the proposed zoning conversion).

Proposed Revised Zoning Translation

In order to remain consistent with the approach of the zoning conversions being implemented by the DMA, this letter proposes a new criterion for conversion of certain CBD-1 zoned properties, such as proposed herein. Many of the other commercial zone conversions, such as C-1, C-2, C-3, etc., have a variety of potential conversion choices, depending on their physical relationship and proximity to other zones or uses. The CBD-1 Zone does not have such a differentiation today, but did in an earlier version of the conversions. Today, the CBD-1 Zone converts only to CR-3.0, C-2.0, R-2.75, H-90T. We propose that a second potential conversion, CR-5.0, C-4.0, R-4.75, H-145T, be established for properties that meet the following conditions:

CBD-1.

If parcel abuts a heavy rail public transportation facility that is not below ground at that location, and abuts or confronts CBD-2 property on at least two of the remaining three sides, then, if requested by the property owner, convert to:

CR-5.0, C-4.0, R-4.75, H-145T.

(The CR-5.0, C-4.0, R-4.75, H-145T Zone proposed here is the proposed "translation zone" for conversion of the adjacent HOC properties currently zoned CBD-2.)

Conclusion

For the above reasons, we request that the Property be rezoned from the CBD-1 Zone to the CR-5.0, C-4.0, R-4.75, H-145T Zone as part of the adoption of the DMA.

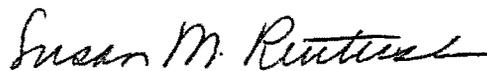
Thank you for your consideration of this request.

Very truly yours,

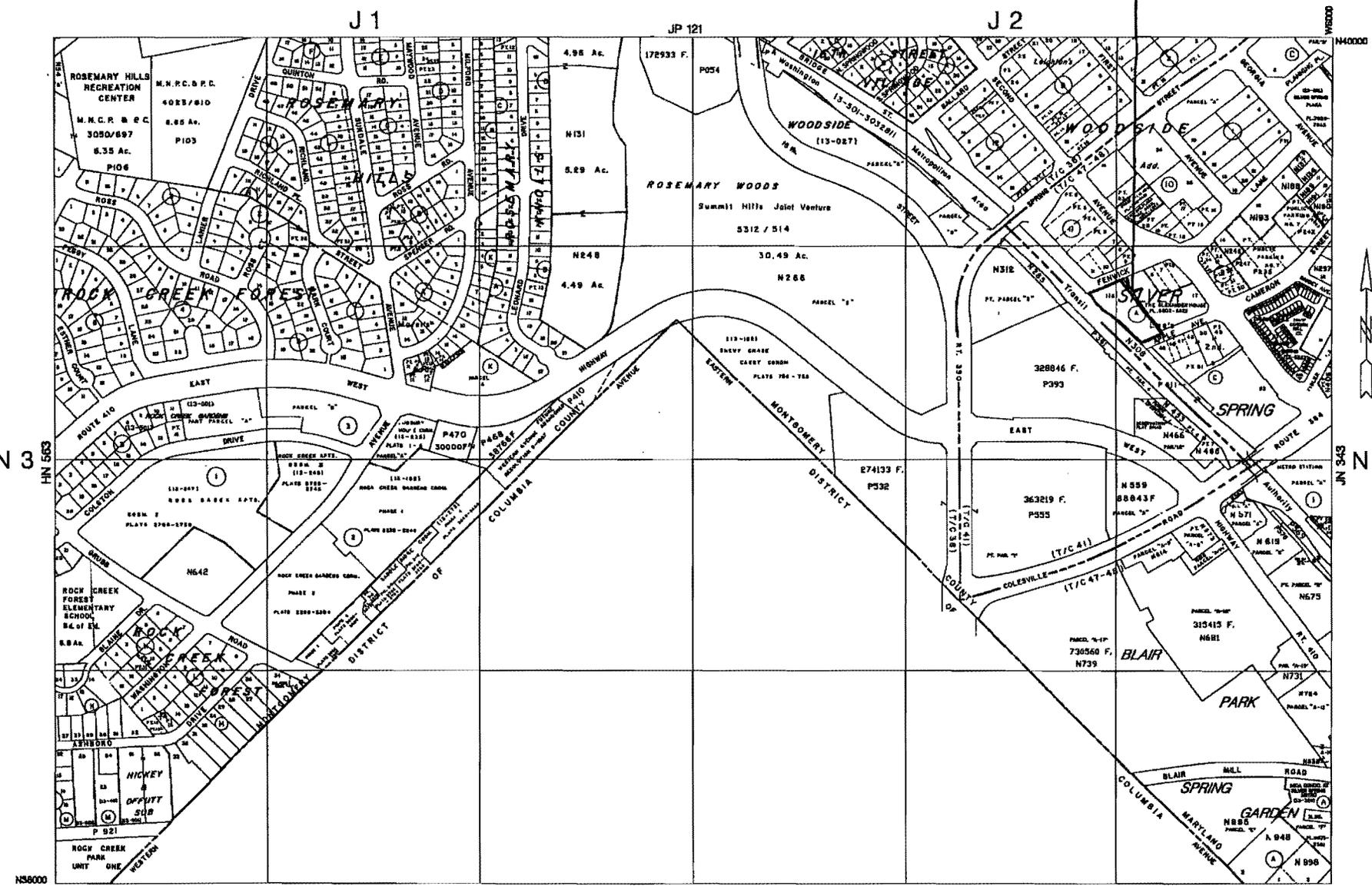
LERCH, EARLY & BREWER, CHARTERED



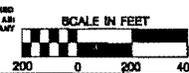
William Kominers



Susan M. Reutershan



THIS MAP IS PROTECTED BY COPYRIGHT. IT MAY NOT BE COPIED OR REPRODUCED IN ANY FORM INCLUDING ELECTRONIC FORMS SUCH AS MICROFILM, SCANNING, PHOTOGRAPHY, OR SIMILAR PROCESSES, OR BY ANY SYSTEM NOW KNOWN OR TO BE INVENTED WITHOUT PERMISSION IN WRITING FROM THE MARYLAND DEPARTMENT OF PLANNING.



MONTGOMERY COUNTY DEPARTMENT OF PLANNING		PROPERTY MAPS SECTION	
DATE: 11/11/13	SCALE: 1" = 100'	PROJECT: JN 123	DATE: 11/11/13
BY: [Signature]	SCALE: 1" = 100'	PROJECT: JN 123	DATE: 11/11/13
DATE: 11/11/13	SCALE: 1" = 100'	PROJECT: JN 123	DATE: 11/11/13
BY: [Signature]	SCALE: 1" = 100'	PROJECT: JN 123	DATE: 11/11/13

J 2
MONTGOMERY CO., MARYLAND
MAP JN 123
 W.S.S.C. 210 NW 02
 Location: SILVER SPRING

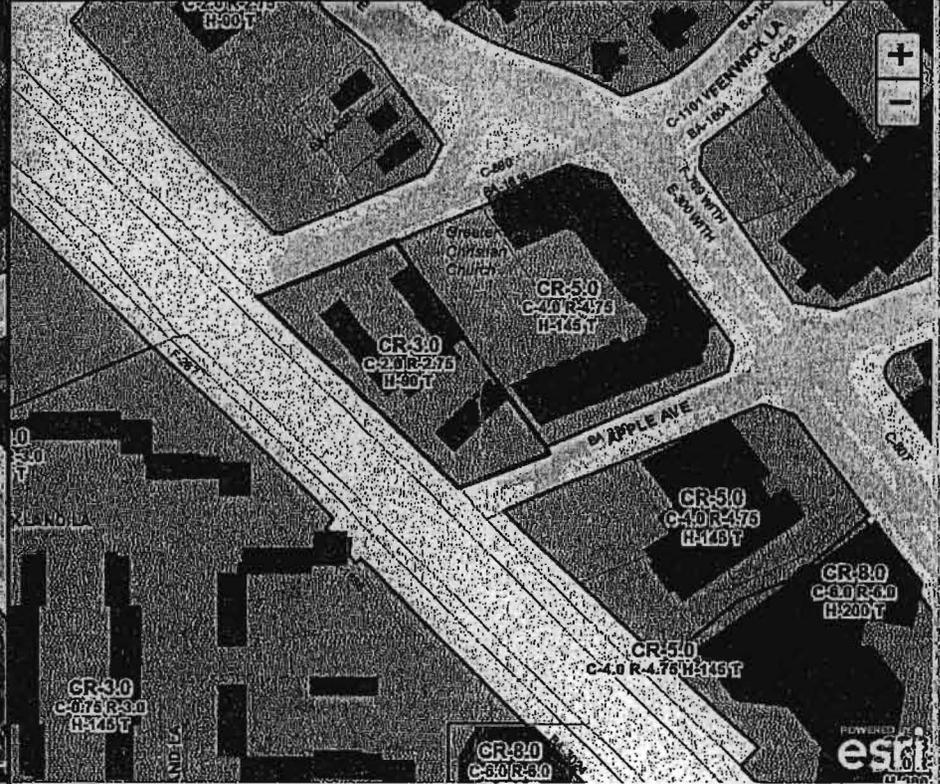
38

Existing Zoning - February 11, 2014

PHED Proposed Zoning - Dec 18, 2013. (Error Revision April 20, 2014)

1315 Apple Avenue

View underway Master Plans



18

CBD-1

CBD-1 (Existing Zone)
Central Business District

CBD-1 (Existing)			
		Standard Method	Optional Method
A. Density	Density		
	Residential density (max)	43 units/acre	125 units/acre
	Non-residential density	1.0 FAR	2.0 FAR

CR-3.0 C-2.0 R-2.75 H-90 T

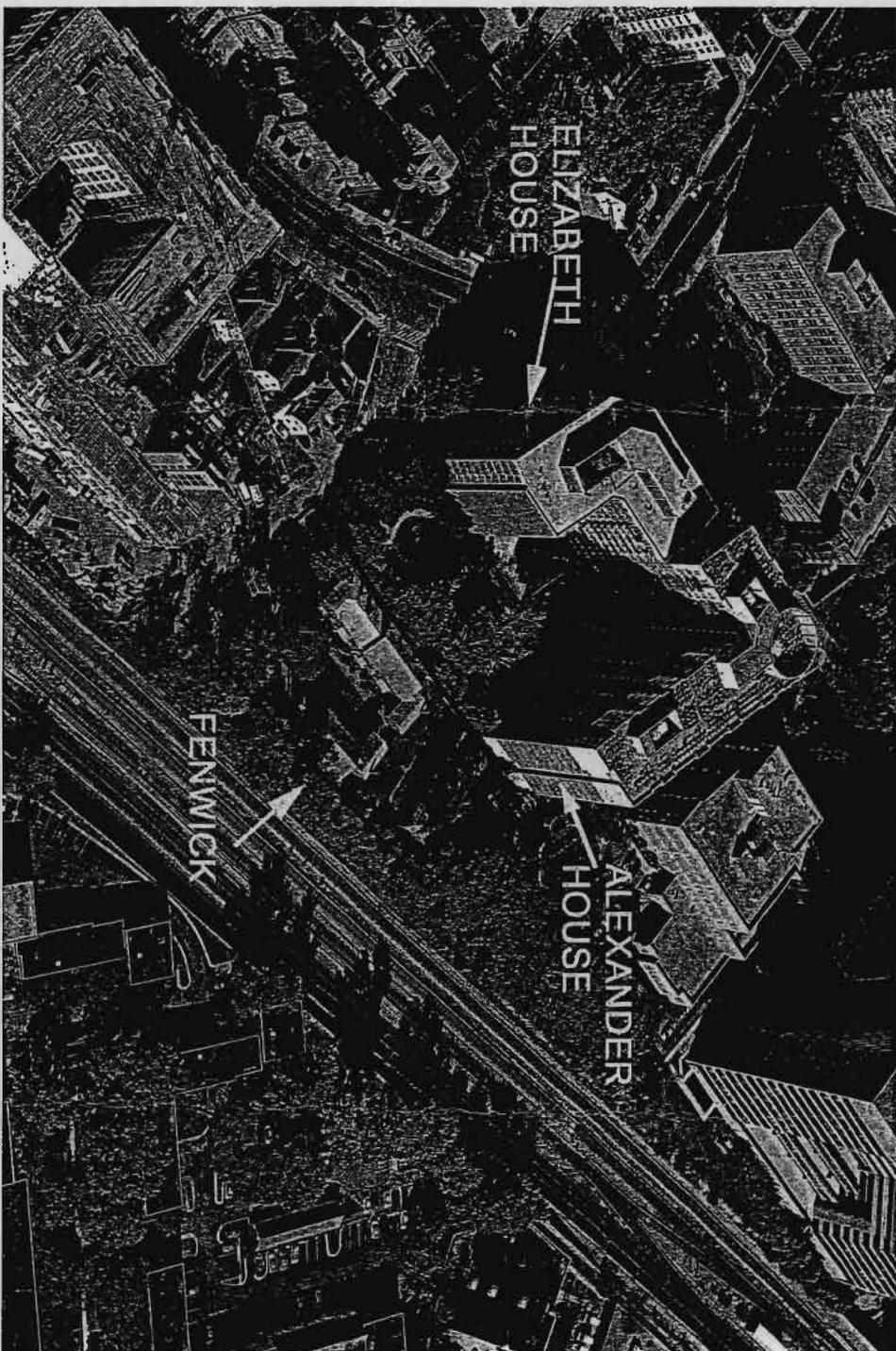
CR (Proposed Zone)
Commercial Residential

Density in the CR zones is calculated as an allowed floor area ratio (FAR). FAR is the ratio of the total floor area of buildings on a property to the size of that property. Each CR zone has a unique sequence of maximum total FAR, maximum commercial FAR (C), maximum residential FAR (R), and maximum height (H). In most cases, developers must mix residential and non-residential uses to achieve the maximum allowed density.

The densities shown on the map are the maximum achievable densities and heights (except as indicated in the next paragraph). These densities are only achievable through the Optional Method. Standard Method density is set at a maximum of 0.5 FAR.

When "T" follows the CR formula (example CR-4.0 C-1.5 R-1.0 H-150 T) it means that

Aerial View – Elizabeth Square





ideas that work

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William Kominers

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Fax (301) 347-1783

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BETHESDA PURPLE LINE SECTIONAL MAP AMENDMENT NO. G-961

(TESTIMONY OF WILLIAM KOMINERS)

June 10, 2014

Good afternoon President Rice and members of the Council. I am Bill Kominers with the law firm of Lerch, Early & Brewer and I am speaking on behalf of 7272 Wisconsin Building Corporation, the owner of the property upon which the Apex Building is located.

Following up on David Witmer's testimony, ASHP and those developers who have expressed an interest in possibly redeveloping the site, have all assumed that the CR-8.0, C-7.5, R-7.5, H-250 Zone recommended in the Minor Amendment will be the zone for the Property. The parameters of that zone have been used for purposes of analyzing the economics of the possible advantages and disadvantages of demolishing the Apex Building to accommodate the Purple Line, the Metro South Entrance, and the Capital Crescent Trail. Therefore, it is imperative that the proposed rezoning to the CR-8.0, C-7.5, R-7.5, H-250 Zone by the Sectional Map Amendment ("SMA") take place without modification. If the proposed rezoning category were changed, or the timeline for adoption were delayed, the assumptions underlying the analyses already undertaken by interested developers would have to be revised to reflect such changes. This would result in additional time for those revisions, as well as additional time for ASHP to evaluate the options and to reach a decision on whether it can reach an agreement with a developer.

At the same time, there are two important, but more technical issues relative to the District Map Amendment and the Zoning Ordinance Rewrite that should be considered by the Council. The issues come from the sequencing of adoption of this SMA.

Reflect SMA Zoning In The DMA.

The new Zoning Rewrite will become effective on October 30, 2014. The District Map Amendment No. G-956 (the "DMA") will be adopted to rezone properties to the new zones created by the Rewrite, using the "conversion zones" identified by the Planning Board for the DMA. The Property is currently zoned CBD-2. The conversion zone under the DMA for properties currently zoned CBD-2 is: CR-5.0, C-6.0, R-6.0, H-200T. This is significantly different from the CR-8.0, C-7.5, R-7.5, H-250 Zone proposed by the SMA, and is far less favorable to ASHP and potential developers.

We anticipate that the SMA G-961 will be approved and adopted to implement the recommendations of the Minor Master Plan Amendment before the DMA rezoning is effective to implement the Rewrite. As a result, the Property would be classified in the CR-8.0, C-7.5, R-7.5, H-250 Zone before the application of the conversion methodology of the DMA. To preserve the zoning mapped by this SMA, the DMA should be revised to reflect the zoning under the SMA (CR-8.0, C-7.5, R-7.5, H-250) and not the less favorable "conversion zone" that is used for other CBD-2 properties.

Grandfathering.

The second issue involves how the Property would be grandfathered under the Zoning Rewrite. If the SMA precedes the DMA, then the CR-8.0, C-7.5, R-7.5, H250 Zone would be the zoning of the Property "in effect on October 29, 2014" for purposes of Section 7.7.1 of the Rewrite. But the building on the Property really should be grandfathered for its current CBD-2 Zone, since that is the zone and development standards under which the building was constructed. If ASHP is unable to reach an agreement with a developer, they want to be certain that the building, as it is, remains protected and grandfathered as what it is---CBD-2.

To accomplish this protection, we suggest that you amend the Zoning Rewrite to provide that for purposes of Section 7.7.1 of the Rewrite, properties that are subject to an SMA adopted after March 5, 2014, but before October 30, 2014, should be considered to be classified on October 29, 2014, in the zone that was mapped on the Property immediately prior to such SMA.

Thank you for your consideration of these comments.

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

June 4, 2014

Stephen Z. Kaufman
301.961.5156
skaufman@linowes-law.com

VIA EMAIL & FIRST CLASS MAIL

Nancy M. Floreen
Councilmember, Chair of the PHED Committee &
Members of the County Council
George Leventhal, Council Member, PHED Committee
Mark Elrich, Council Member, PHED Committee
Jeff Zyontz, Esq., Legislative Attorney for Council on Zoning
The Montgomery County Council Members
100 Maryland Avenue
Rockville, MD 20850
Councilmember.floreen@montgomerycountymd.gov

Re: Impact of Zoning Rewrite and Implementing Comprehensive Map Amendment on the
Continuous Operation of Tri-State Stone and Building Supply (the "Subject Property")
Located Near the Intersection of River and Seven Locks Roads

Dear Chairwoman Floreen and Members of the PHED Committee

Our firm represents Tri-State Stone and Building Supply and with reference to the above-captioned matter, the purpose of this letter is to confirm that the continuous operation of Tri-State's stone and rock quarry will continue to be allowed as a permitted use under the new zoning text which now reclassifies the "Stone and Rock Quarry Use" as a "Mining Extraction Use" and that the current zoning classification R-200 which permits this operation as a "Limited and Conditional Use," will be reconfirmed as part of the Countywide Comprehensive Map Amendment which will be implemented prior to the end of 2014.

Additionally, the purpose of this letter is confirm that the operation of Tri-State Stone and Building Supply which has continued without interruption since the 1920s, is also considered a grandfathered use under Section 7.7.1(A), Subsections (1) and (2) of the recently adopted new Chapter 59 of the Montgomery Code identified as the "Montgomery County Zoning Ordinance," approved on March 5, 2014.

Finally, the purpose of this letter is to confirm that certain other sections of the new ordinance, specifically Sections 3.6.2, "Contractor Storage Yard," and Section 3.6.8, "Warehouse," do not and will not apply to the Subject Property as the use falls only under Section 3.6.5, "Mineral Extraction." We note, however, that even within Section 3.6.5, certain provisions do not apply

LINOWES
AND **BLOCHER LLP**
ATTORNEYS AT LAW

Chairman Nancy M. Floreen
and Members of the County Council
June 4, 2014
Page 2

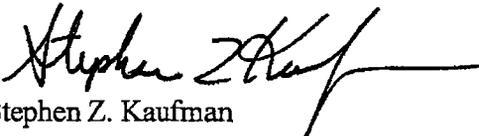
as this property is exempted under Section 7.7.1(A), Subsections (1) and (2), in that the operation has always been within 750 feet of other residentially zoned properties.

Lastly, we request on behalf of our client that the designation on the new zoning map contains a note that reflects the continuous operation of Tri-State Stone and Building Supply as a "Permitted and Conditional Use" that is also a grandfathered use.

Thank you for your attention and assistance regarding this request and please include correspondence as part of the record of these proceedings.

Sincerely,

LINOWES AND BLOCHER LLP


Stephen Z. Kaufman

Cc: Members of the County Council
Mr. Brian Porto
Phillip A. Hummel, Esq.



MEMORANDUM

TO: Jeff Zyontz, Esquire, Legislative Attorney
Montgomery County Council

FROM: Stephen J. Orens

RE: PHED Worksession on District Map Amendment - Darnestown Village Center

DATE: May 28, 2014

I understand that the PHED Committee will take up the District Map Amendment (“DMA”) at its June 9th worksession. Please consider this communication as a request that the DMA recommended zoning classification for the “L” shaped property, located on both Darnestown Road and Seneca Road in Darnestown, depicted on the attached excerpt from the Master Plan be included in that discussion and that that property be reclassified by the DMA to the CRN-0.25 zone which is the proposed classification for the surrounding properties, including the commercial property that the “L” shaped property surrounds.

You may recall that I testified at the County Council’s public hearing on Zoning Text Amendment 06-01 on behalf of the owners of this RE-2 zoned property that continues to be recommended for commercial development by the approved and adopted Potomac Subregion Master Plan. That Master Plan designates that “L” shaped property as part of the area governed by the Rural Village Center Overlay Zone.

You may also recall that you and I collaborated on a prior zoning text amendment intended to implement the commercial development recommendation in the Master Plan by a Local Map Amendment rezoning to the recommended “commercial base zone, the now defunct Country Inn Zone.

The “L” shaped RE-2 zoned property is adjacent to the commercial intersection of Seneca Road and Darnestown Road in the Darnestown Village Center with frontage on both Darnestown and Seneca Roads Accordingly it is recommended for inclusion in the “commercial” corner recognized by the Potomac Subregion Master Plan.

The Rural Village Center Overlay Zone was enacted to implement the Potomac Master Plan recommendation for the future development of the commercial corner portion of the Darnestown Village Center. The express Master Plan recommendation for the commercial corner was “to retain and enhance the commercial crossroads character through compatible

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Page 2

scale, massing, siting, and setbacks for new and expanded uses ... while keeping the commercial area compact and low density.”

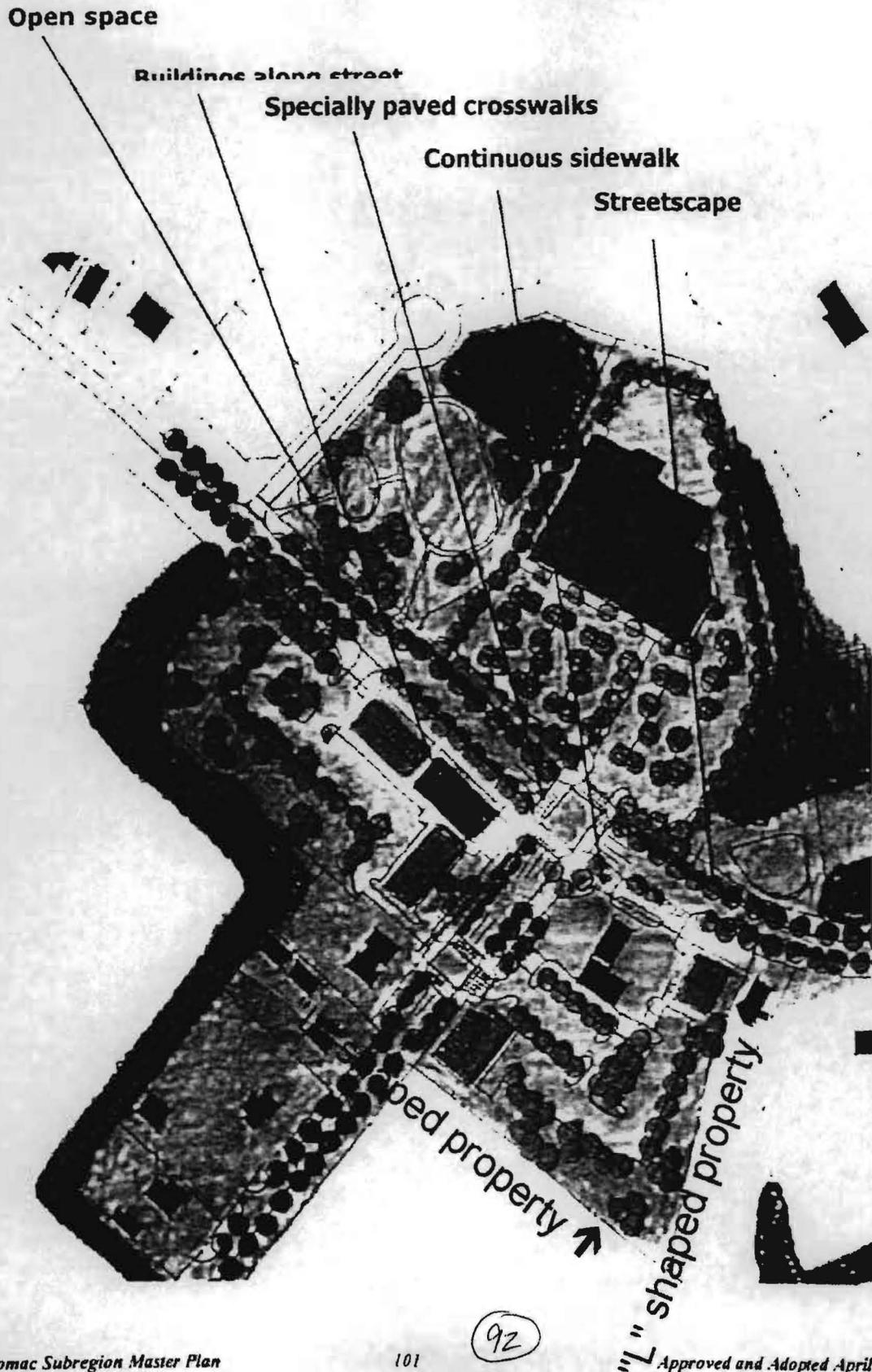
The Potomac Master Plan recommendation of the “RE-2/Country Inn” classifications as the base zoning for the “L” shaped property was not achievable under the prior Zoning Ordinance and cannot be accomplished under the new Zoning Ordinance. Development of the “L” shaped property under its current and proposed RE-2 classification is unachievable given the fact the “L” shaped property does not meet the minimum lot size standard for RE-2 development. More significantly, the master plan recommended commercial development of the “L” shaped property is prohibited so long as the base zone remains residential. In other words, as it sits the L” shaped property is undevelopable. Unless the “L” shaped property is reclassified to a commercial base zone in order to implement the Master Plan’s commercial land use recommendation it cannot ever be developed.

Under both the previous Zoning Ordinances and the recently enacted Zoning Ordinance commercial development in the Rural Village Center Overlay Zone requires a commercial base zoning classification. Unless the subject property is reclassified the underlying RE-2 residential zone precludes the implementation of the master plan recommended commercial development.(See Figure 8 from the Master Plan attached.) is prohibited.

We submit that the only mechanism available to implement the Potomac Master Plan’s sensible recommendation for commercial development is to include as part of the pending DMA, its reclassification to the CRN-0.25 zone.

We look forward to continuing our discussions with you and other County Council staff regarding the future of this property.

Copies to: Tedi Osias, Legislative Aide to Councilmember Floreen
Steven Goldstein, PhD, Councilmember Rice’s Chief of Staff





Stephen J. Orens
301-517-4828
sorens@milesstockbridge.com

June 9, 2014

VIA ELECTRONIC MAIL

The Honorable Nancy Floreen, Chair PHED Committee
The Honorable Marc Elrich, Councilmember
The Honorable George Leventhal, Councilmember
Montgomery County Council
Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Re: **Darnestown Village Center - RE-2 Property Recommended For Commercial Development by the Potomac Subregion Master Plan**

Dear Chair Floreen and PHED Committee Members:

This afternoon the PHED Committee will consider site specific properties that have been brought to the County Council's attention for rezoning by the pending District Map Amendment. The specific site that I bring – again – to your attention is the “L” shaped property, located on both Darnestown Road and Seneca Road in the Darnestown Village Center. (Item “M” on Page 15 of Mr. Zyontz Memo.)

Contrary to Staff's recommendation the Master Plan recommends this property for commercial development as part of the commercial corner governed by the Rural Village Center Overlay Zone. Emphatically, the master plan does not recommend a country inn at this location. In fact, under Section 3.5.3A of the recently enacted Zoning Ordinance this property does not qualify for development as a Country Inn!

When the Potomac Subregion Master Plan was approved and adopted the Country Inn Zone was recommended as **the vehicle for taking this RE-2 Property out of a one family residential zone to qualify it for development with the commercial uses listed in the Rural Village Center Overlay Zone. The express Master Plan recommendation for the commercial corner was “to retain and enhance the commercial crossroads character through compatible scale, massing, siting, and setbacks for new and expanded uses ... while keeping the commercial area compact and low density.”**

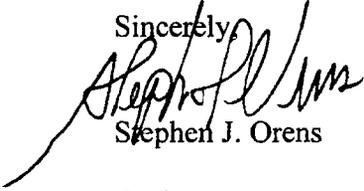
The attached Master Plan recommended land use concept plan for the Village Center depicts two small commercial building on the L shaped property fronting on each of the two roads. **Neither is a country inn.**

(93)

Page 2

On behalf of the two citizens who purchased this unbuildable property based on its master plan recommendation for commercial use and have carried it now for several years, **please take this seriously and not dismissively.**

Sincerely,



Stephen J. Orens

Encl.

cc: The Honorable Craig Rice, Council President
Jeff Zyontz, Esquire, Legislative Attorney
Tedi S. Osias, Aide to Councilmember Floreen
Dr. Steven Goldstein, Chief of Staff for Council President Craig Rice

2014 Zoning Ordinance

Section 3.5.3. A. Country Inn

1. Defined

Country Inn means an establishment for dining in a rural area that may include a maximum of 12 overnight guest rooms and the following subordinate uses: rural antique shop; handicrafts or art sales; equestrian-related retail sales and service; and recreational facilities primarily for the use of guests.

2. Use Standards

a. Where a Country Inn is allowed as a limited use, it must satisfy the following standards:

i. The property on which the use is located must have been in the Country Inn zone and be the subject of an approved development plan or development plan amendment before October 30, 2014, and must satisfy the development plan and any associated binding element or covenant applicable to the property as of October 29, 2014.

ii. A conditional use application for a Country Inn may be filed with the Hearing Examiner if this use standard can not be met.

b. Where a Country Inn is not legally existing before October 30, 2014, it may be allowed as a conditional use by the Hearing Examiner under Section 7.3.1, Conditional Use and the following standards:

i. The minimum lot area is 2 acres, or a lesser area if a master plan recommends a lesser area.

ii. The maximum coverage is 10%.

iii. A minimum of 50% of the lot must be open space.

iv. The minimum setback from any street is 50 feet. The minimum setback from any other lot line is 75 feet.

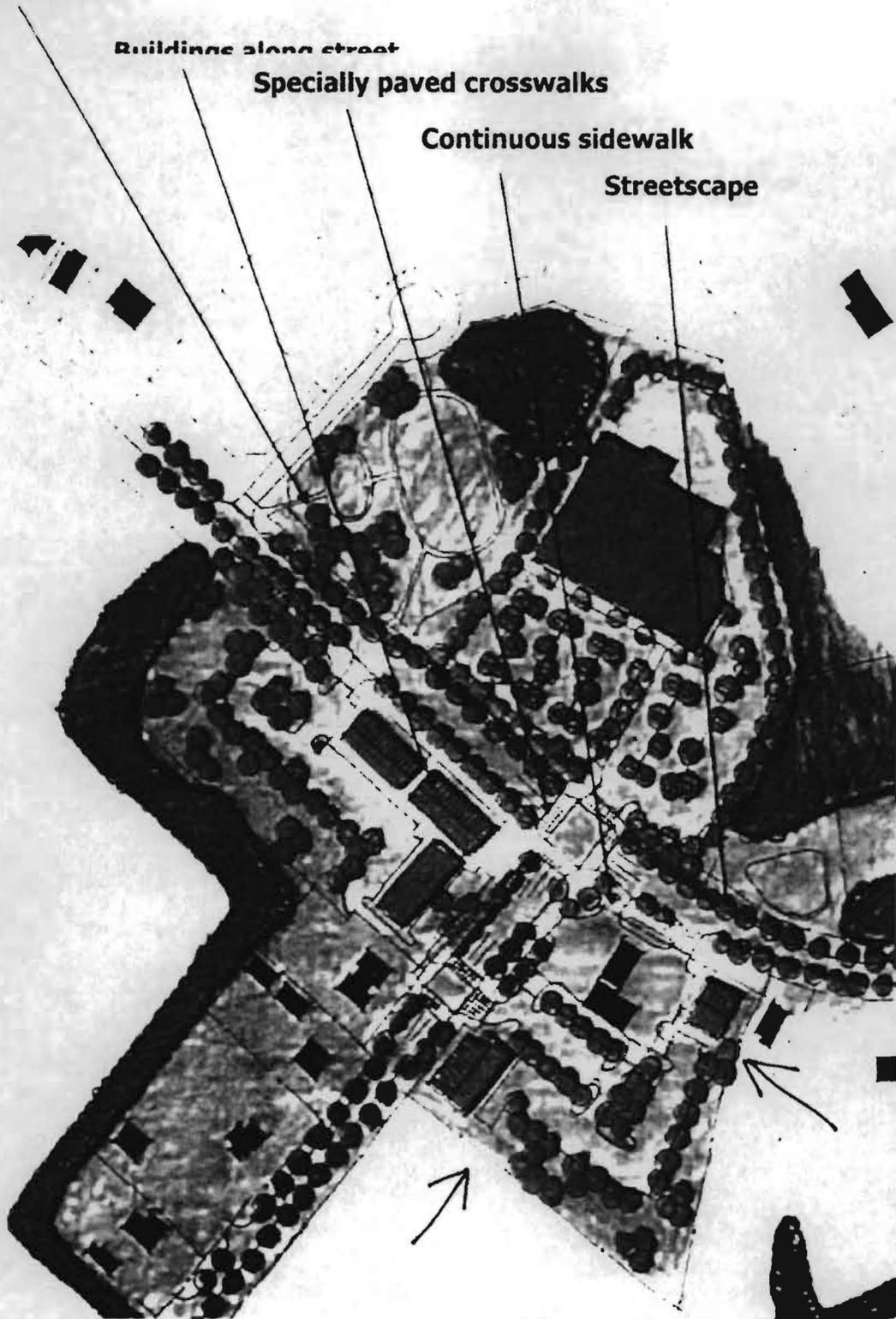
Open space

Buildings along street

Specially paved crosswalks

Continuous sidewalk

Streetscape



Recommendations

- **Maintain the existing R-200 zoning.**
- **Do not extend community sewer to the Darnestown Triangle except as necessary for public health reasons due to failing septic systems.**
- **Acquire through dedication the western (and undevelopable) stream valley portion of the Roberts property. This recommendation also applies to the Turkey Foot property (90 acres) to the south which is recommended for protection through voluntary dedication, acquisition or conservation easements. The preserved area on these two properties would augment the Muddy Branch Stream Valley Park, extending water quality protection north as far as Rollinmead.**
- **Correct zoning anomalies (split-zoned lots) by Sectional Map Amendment.**

Darnestown Village Center

Darnestown's commercial center covers about 10.18 acres and is located at the intersection of Darnestown and Seneca Roads. (See Map 25.) Surrounding development is primarily low-density housing, mostly zoned RE-2. The center is also bounded by a 189-acre site owned by the Archdiocese of Washington, west of Seneca Road, zoned RC. The Archdiocese site currently houses a church, regional parish school, and youth recreational facility. Additional institutional uses related to Archdiocesan activities may be developed on this large property consistent with applicable regulatory requirements. Rural Cluster residential development may also occur. Lacking sewer, development is subject to septic requirements. Current development in the Village Center is auto-dominated and includes a Food Lion grocery store, a gas station, and several one- and two-story retail and office structures.

The village's zoning is mixed, approximately 8.53 acres zoned C-1, and approximately 1.65 acres in the O-M Zone. There are several concerns with the existing zoning:

Development in the C-1 Zone does not require site plan review or a public hearing and has resulted in patterns that are objectionable to the surrounding community.

- The O-M Zone is inappropriate in this location. Its densities are too high for a rural village and for an area reliant on septic systems.
- The current combination of zoning and septic requirements prohibit some desirable uses, such as a restaurant.

Absent an existing commercial zone appropriate for a rural area, this Plan recommends a new Overlay Zone based on existing zones and designed to allow compatible uses in a rural village pattern. Its purpose is to retain and enhance the commercial crossroads character through compatible scale, massing, siting, and setbacks for new and expanded uses; to encourage a variety of uses that serve the needs of the local community; to provide opportunities for new and existing business expansion, while keeping the commercial area compact and low density; to create a pedestrian-

friendly commercial area; and to draw on the open, green character of the surrounding area, emphasizing this character through streetscape design.

The Rural Village Center Overlay Zone would delete certain C-1 uses considered inappropriate for a rural village. The Overlay Zone would include development standards for green area, location of buildings and parking, building height, and density.

Recommendations

The following recommendations are intended to create a cohesive, pedestrian-friendly, rural center for the Darnestown community and to provide guidelines for future development:

- **Create an attractive, pedestrian-friendly rural village center, consisting primarily of retail uses. Draw upon the open, green character of the surrounding area. (See Figure 7.)**
- **Use the overlay zone to limit the uses that would otherwise be allowed in the base zones (C-1 and O-M) to those that would be appropriate for a rural village.**
- **Develop standards in the overlay zone to promote the objectives of the rural village center, including green character and a pedestrian friendly environment.**
- **Allow residential properties adjacent to commercial properties to be used for the septic fields (to serve the commercial properties) where recommended by the Master Plan.**
- **Apply the RE-2/Country Inn zone to 11 acres on the east side of Seneca Drive including parcels 655, 708, and 641.**

LU & ZONING

JZ
CC



ideas that work

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William Kominers

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5006984

May 23, 2014

VIA OVERNIGHT MAIL AND E-MAIL

The Honorable Craig Rice, President
And Members of the Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Re: District Map Amendment No. G-956—5520 Wisconsin Avenue (the "Property")

Dear President Rice and Members of the Council:

This letter is written on behalf of Grosvenor Urban Maryland, LLC, ("Grosvenor"), the owner of the above-referenced Property, also known as Lot 21, Block 1, Friendship Heights as shown on the Record Plat recorded as Plat No. 9126 (Tax Account No. 07-00493904, as shown on the excerpt of Tax Map HM343, attached as Exhibit "A"). The Property is currently improved with a 12-story hotel, ground level retail and related parking garage (collectively, the "Existing Buildings"). The purpose of this letter is to request that the new zone mapped on the Property under the District Map Amendment No. G-956 (the "DMA") accommodate, at least, the height and density of the Existing Buildings, so that they need not rely solely on the grandfathering provisions of the Zoning Ordinance Rewrite to conform. Grosvenor is concerned that the standards of the new zone currently proposed to be mapped on the Property by the DMA will effectively prevent future redevelopment of the Property, because the proposed CR Zone provides for a lesser height and density than what currently exists.

Original Construction.

The Property is currently zoned CBD-1. However, the Existing Buildings were constructed circa 1967 under the development standards of the prior C-2 Zone that applied at the time of construction. At that time, the C-2 Zone did not establish a maximum FAR, but rather indirectly limited the maximum density through minimum set-backs, maximum building height, and required parking. As a result, the C-2 Zone effectively permitted buildings up to 143 feet in height.¹

According to the Record Plat, the Property has a net lot area of 79,012 square feet. Measurements prepared by the Owner in conjunction with the major renovation and rebranding of the hotel indicate that, in total, the Existing Buildings on the Property contain 158,580 square

¹ "No building shall be erected to a height exceeding one hundred and ten feet; provided, that an additional floor may be permitted for each floor whereon sixty percent of the floor space is used for off-street parking purposes, and that no more than three additional floors may be allowed, and that the height of such additional floors shall not exceed an average of eleven feet each." Montgomery County Code 1965, Section 111-21(e).

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feet of gross floor area ("GFA").² Accordingly, the Property is currently developed at approximately a 2.01 FAR. The tallest structure on the Property, the hotel, is approximately 113 feet in height.

Existing Buildings Exceed Proposed Zone Standards.

The previous C-2 zoning permitted development at an FAR and building height greater than what is being mapped on the Property as part of the DMA (and also greater than the existing CBD-1 Zone). The Existing Buildings were properly built to those earlier standards, without using the optional method process. The Existing Buildings already exceed the 1.0 FAR density and 35 foot height limit of the current CBD-1 Zone under the standard method of development, and just slightly exceed the 2.0 FAR density and the 90 foot height permitted under the current optional method of development with site plan approval. Yet the DMA proposes to rezone the Property to the CR 3.0, C-2.0, R-2.75, **H-90T** (Exhibits "B-1" and "B-2"), that provides for a maximum commercial density and building height less than what exists today.

1. Density.

The commercial density allocation for the Property in the proposed CR Zone is limited to 0.5 FAR under the standard method of development and 2.0 FAR under the optional method of development. As such, the Existing Buildings greatly exceed the maximum FAR allowed under the CR Zone standard method of development, and even exceed the maximum 2.0 FAR permitted for commercial density under the optional method of development.

2. Height.

The existing hotel, at approximately 113 feet (Exhibit "C"), surpasses the maximum 90 foot building height permitted under both the standard and optional method of development in the CR zone by more than 20 feet.

3. Effect.

By already exceeding each of these standards, there is effectively no potential left for either any addition to the building, or any redevelopment, because the existing height and density could not be replicated in a different design.

4. Solution.

The proposed commercial density and building height planned for the Property under the new CR Zone, pursuant to the DMA, should be increased to accommodate the volume of the existing commercial development on the Property.

Recent Renovation.

The existing hotel, now a Courtyard by Marriott, was remodeled in June 2009 to provide improved guest accommodations and updated facilities. The renovation included changes to both the architecture and the interior design of the hotel to improve the overall aesthetics, and

² The existing hotel, including the restaurant use, is approximately 117,900 square feet. The adjacent ground floor retail has a combined total of 40,680 square feet, thus resulting in a total gross floor area of 158,580 square feet.

also made improvements to the mechanical systems to increase the energy efficiency of the building. The ground-level retail stores were not included as part of this renovation. As such, the retail stores will likely require renovations in the coming years to ensure that the Property can continue to retain and attract quality retail tenants, in order to remain competitive with the surrounding retail centers.

Proposed Change in the DMA.

The DMA should reflect the existing conditions on the Property in order to ensure its continued economic viability and to encourage redevelopment when the time is ripe (a redevelopment that is consistent with the owner's expectations when the Property was acquired).

The Zoning Ordinance Rewrite protects existing buildings that do not meet the standards under the new zones, by making them conforming. (See Section 7.7.1.A.1.) The grandfathering allows those existing structures to be "continued, renovated, repaired, or reconstructed" in accordance with the standards in place before the DMA. (Id.) However, under the grandfathering provision, any redevelopment of these "conforming" structures that increases the current building footprint cannot use the grandfathering protections, even if the existing as-built height and density remain constant.(Id.) (If redevelopment under the new zone cannot achieve the same density or height, undertaking or financing such redevelopment becomes problematic). This situation creates an economic disincentive for property owners to redevelop older buildings, as any redevelopment will want to at least maintain the current building height and density, while likely wanting to adjust the footprint (for modern urban design goals, such as bringing buildings closer to the street, etc.).

Mapping properties at heights and densities that are insufficient to accommodate the existing development fails to recognize reality. Property owners should not have to rely solely on a grandfathering provision simply to maintain the character of a development that already exists. In this instance, the Existing Buildings have been a part of the community fabric for decades. The surrounding buildings are of a similar character—taller and denser than could be built under the CBD zoning today. The value of these buildings is based on their density and their ability to provide the space and services—a quantity and type of services that give vitality to the area. The height and density of the Existing Buildings, and its hotel and retail uses, are assets to the community. Any future large-scale redevelopment of the Existing Buildings with additional density will require optional method of development approval, thereby ensuring the normal level of public review and protection for the community.

Proposed Zoning Classification.

Grosvenor Urban Maryland, LLC respectfully requests that the Council revise the zoning proposed for the Property in the DMA to CR-3.0, C-2.25, R-2.75, H-120T (rather than CR-3.0, C-2.0, R-2.75, H-90T). The CR Zone height for the Property needs to be increased to at least 120 feet to accommodate the height of the existing hotel. Within the umbrella of an aggregate 3.0 FAR, the CR Zone commercial density for the Property needs to be increased to at least C-2.25 to accommodate the existing commercial density on the Property. The new zoning should at least reflect the reality of the current development on the ground.

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May 23, 2014

Page 4 of 4

Thank you for the Council's careful consideration of these concerns.

Very truly yours,
LERCH, EARLY & BREWER, CHTD.

William Kominers - eca

William Kominers

Elizabeth C. Geare

Elizabeth C. Geare

cc: The Honorable Nancy Floreen
Mr. DJ Sworobuk
Dr. Steven Goldstein
Ms. Rose Krasnow
Jeffrey Zyontz, Esquire
Ms. Pam Dunn

Existing Zoning

Eastway Avenue February 11, 2014

5520 Wisconsin Avenue

Property



Church of Jesus Christ of Latter Day Saints

CBD-1

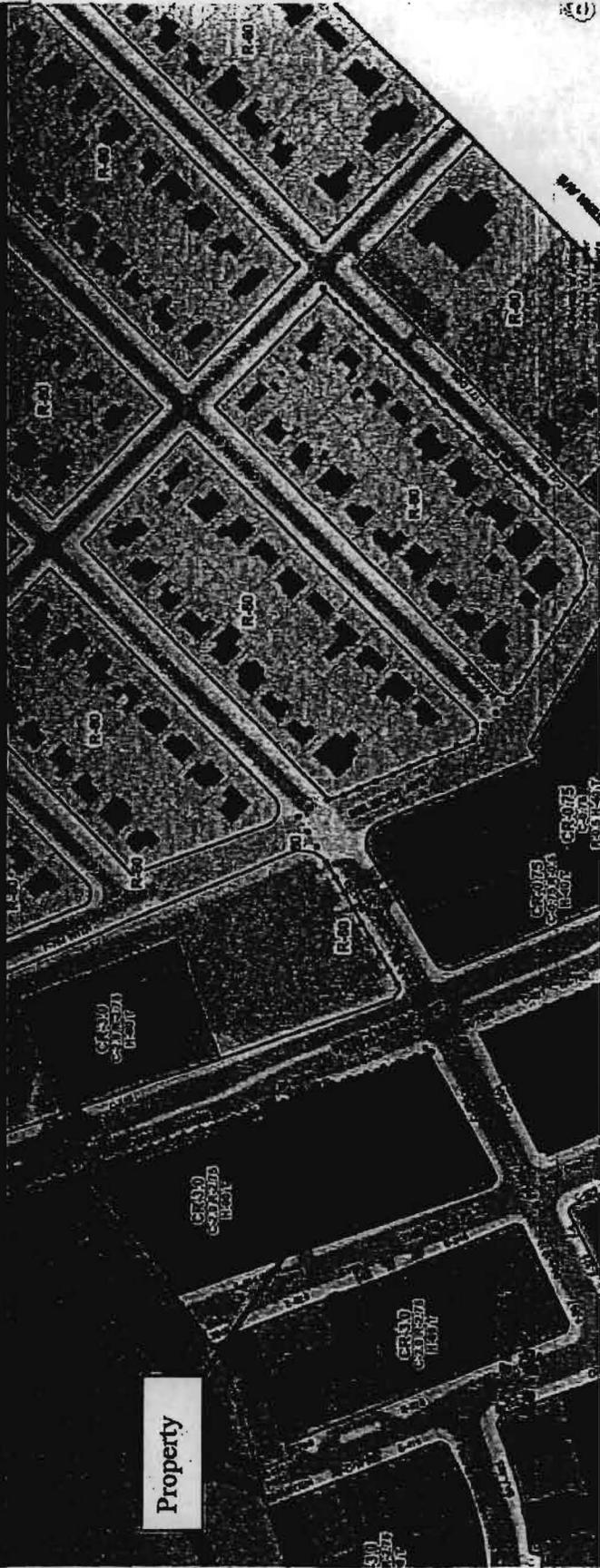
CBD-1 (Existing Zone)
Central Business District

CBD-1 (Existing)		Optional Method	
A. Density	Density	43 units/acre	125 units/acre
	Residential density (max)	1.0 FAR	2.0 FAR
	Non-residential density (max)	2.0 FAR	3.0 FAR
B. Height	Total Density (max)	Height	90' 1
	Building Height (max)	60'	

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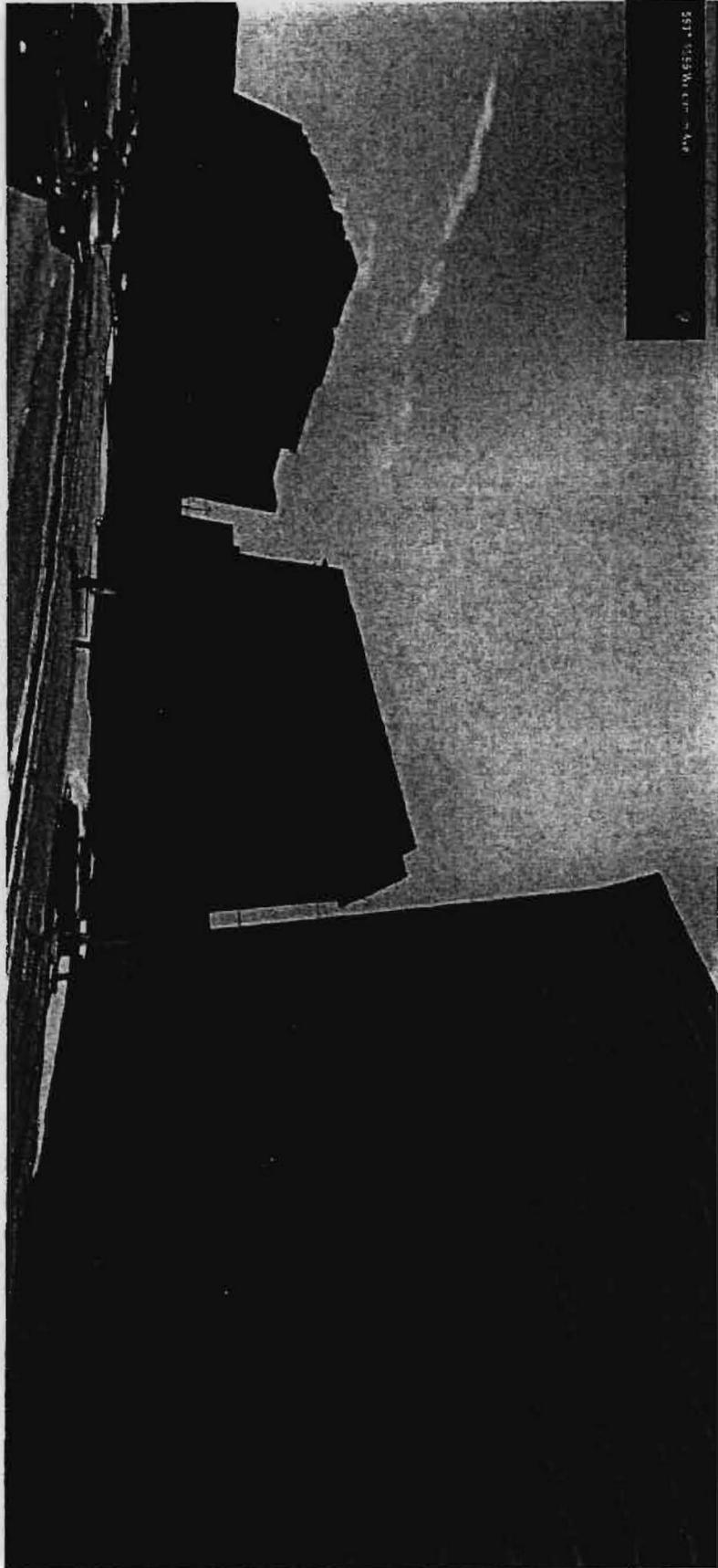
Proposed Zoning

PHEC Proposed Zoning - Dec 18, 2013 (Error Revision April 20, 2014)



CR-3.0 C-2.0 R-2.75 H-125 T

CR (Proposed)	
A. Density ¹	Density
	Indicated on the map.
B. Height ¹	Total FAR (max)
	Indicated on the map.
C. Coverage	Commercial FAR (max)
	Indicated on the map.
	Residential FAR (max)
	Building (max)
	Building Height
	Indicated on the map.
	Lot Coverage
	90% (for select building types)
	Lot (max % of lot area)
	Varies by building type and lot size, 0% to 20%
	Open Space (min)



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EXHIBIT "C"



ideas that work

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3 Bethesda Metro Center, Suite 460
Bethesda, MD 208145367

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November 21, 2013

VIA OVERNIGHT MAIL AND FIRST CLASS MAIL

The Honorable Nancy Navarro, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, Maryland 20850

RE: Zoning Text Amendment No. 13-04, Zoning Ordinance Rewrite
District Map Amendment No. G-956
QIAGEN Germantown Campus
19300 Germantown Road, Germantown, Maryland

Dear Council President Navarro and Members of Council:

We previously wrote to the Montgomery County Planning Department and the Planning, Housing & Economic Development Committee ("PHED Committee") on behalf of QIAGEN, Inc., to express specific concerns about Zoning Text Amendment No. 13-04 (the "Zoning Ordinance Rewrite," or the "ZTA") and District Map Amendment No. G-956 (the "DMA"), as these Amendments relate to QIAGEN's North American Headquarters Facility at 19300 Germantown Road in Germantown, Maryland (the "Germantown Business Park," or the "Property"). The QIAGEN facility is comprised of research and development, laboratory, manufacturing/production, warehouse and distribution uses. The Property is a single record lot that is split-zoned, with approximately 7.62 acres in the center of the Property zoned I-1 (Light Industrial), surrounded by 17.11 acres zoned O-M (Office Building, Moderate Intensity). The existing buildings, as well as those approved for the Property fall into both zones and in some cases straddle the zoning line.

At the time of our previous correspondence on October 3, 2013, the conversion of the Zones under the DMA, particularly the conversion of the I-1 Zone to the proposed IM-2.5, H-50 Zone, would have caused immediate and severe problems for QIAGEN's existing building and its newly approved building, as each would have exceeded the allowable height under the IM-2.5, H-50 Zone. We understand that the Planning Department has now updated the zoning conversion for the Property to correct the issue of building height. But, we want to be certain that the correction remains. In addition, because the Zoning Ordinance Rewrite's other impacts on the QIAGEN Property remain unresolved, we are providing the following information for your consideration.

I. BACKGROUND.

QIAGEN acquired the Property in 2000 and 2002. The development rights for the Property were established by the prior owner, through the subdivision and Adequate Public Facilities ("APF") review process. When QIAGEN made its investment in the Property and moved to Montgomery County, it was done with the understanding that doing so would allow the corporation to construct its facilities gradually over time, to respond to expanding business needs. In the interim between QIAGEN's original Site Plan approval in 2000 and the present, QIAGEN has effectively advanced its plans and intentions for the Property. Most recently, on June 6, 2013, QIAGEN obtained approval from the Montgomery County Planning Board for the sixth site plan amendment for the Property ("Site Plan Amendment No. 81998022F," or the "Site Plan Amendment") to modify the project to allow development of a new five-story building on the Property (comprised of office, research and development, manufacturing/production, and warehouse and distribution), as well as to make other site improvements. This new five-story building is intended to accommodate current business needs and anticipated near-term growth, and has been designed to house a variety of functional uses so as to allow QIAGEN to respond to rapid changes in the biotechnology industry and global operational needs.¹

While the Property has generally proven to be well-suited to QIAGEN's needs, the zoning characteristics of the Property have always presented several unique design and operational challenges. As depicted on the attached excerpt of the Zoning Map (Exhibit A), the I-1 zoned portion of the Property is contained entirely within the interior portion of the campus and is almost completely encircled by the O-M zoned portion. The O-M zoned portion has frontage on both MD Route 118 ("Route 118") and Dawson Farm Road. The I-1 zoned portion has no direct street frontage.

II. ZONING CONVERSIONS PROPOSED IN DISTRICT MAP AMENDMENT.

a. Split Zoning Is Perpetuated.

The parameters of the existing O-M and I-1 zones are, at this point, well-understood by QIAGEN. As such, the development and use of the Property has been carefully and thoughtfully planned to accommodate the requirements and limitations of each zone. Certain uses must be on certain parts of the Property, not on another. This has caused some conflict between functional layout and use authorization, but has been managed.

¹ With the gradual build-out of its campus facilities at the Germantown Business Park, QIAGEN has exceeded the County's original expectations for contributing to the strategic vision of economic development with the biotechnology industry, demonstrating both an ongoing commitment to enhancing the local economic base and a willingness to invest in Montgomery County's economic future. Since establishing the facility, QIAGEN has (1) relocated several business units from outside Maryland to the Germantown Business Park, along with all administrative functions from across North America (including finance, human resource, and IT operations); (2) invested more than \$75 million in the County in land and facilities; and (3) actively and successfully focused its hiring efforts on existing Maryland residents, primarily those within the County.

Unification under a single zone that would permit all facets of QIAGEN's biotech business would greatly ease the artificial constraints. The DMA, however, will exacerbate the physical difficulties by converting the existing zones to the following new zoning classifications:

O-M converts to "EOF-1.5, H-75" (Employment Office)

I-1 converts to "IM-2.5, H-80" (Industrial, Moderate)

b. Adverse Effects of New Zones.

We previously noted that the DMA and ZTA would create an immediate non-conformity that must be protected by grandfathering provisions, and would introduce new complexities and challenges for QIAGEN's long-term use of the site for further expansion. Recent revisions to the DMA appear to have corrected the non-conformity issue, but other negative issues associated with the split-zoning of the Property remain. If grandfathered, the current flexibility for existing buildings and approved plans will be protected for only a limited period. Amendments to address changes in business needs after that limited period will have to follow standards inconsistent with the existing campus.

The current status of each of the concerns we identified in our October 3, 2013, letter is as follows:

1. Building Height. For the IM zones, the Zoning Ordinance Rewrite only allows standard method development, which must then occur in accordance with specific development standards. As revised, the IM-2.5, H-80 zone now allows a maximum height of 80 feet for the Property (instead of the 50 feet proposed with the previous proposed mapping). While 80 feet is less than what could be achieved in the current I-1 zone (i.e., 10 stories or 120 feet for employment centers with site plan approval), 80 feet is sufficient to accommodate the existing buildings and the recently approved, but unbuilt, building on the Property. The existing buildings on the I-1 zoned portion of the Property have been constructed at heights up to approximately 79 feet.² (See Building Heights and Proposed Zoning on Exhibit B). The newly approved (2013) building is planned to be approximately 60 feet tall (for the portion located on the IM part of the Property.)
2. Setbacks. The proposed setback requirements for the IM zone are also of potential concern, given that the split-zoned site creates zoning lines (that are not lot lines) within the interior of the Property. We understand that Planning Department Staff has discussed the issue of setbacks and has determined that, because the definition of "setback" in the October 11, 2013, Revised Preliminary PHED Committee Draft Zoning Ordinance ("PHED Committee Draft") requires setbacks to be measured from lot lines or rights-of-ways, there would be no circumstance in which the Planning Department would interpret

² The version of the DMA as introduced allowed heights up to 120' for the IM zoned portion of the Property, consistent with the maximum permitted height in the I-1 Zone under Section 59-C-5.41 of the current Zoning Ordinance. After the initial proposed mapping of the IM Zone on this Property at a height of 120 feet (i.e., IM-2.5, H-120), the height was reduced by M-NCPPC Staff in connection with the PHED Committee's review of the ZTA. In the most recent proposed mapping, sufficient height seems to have been restored, albeit not to the extent of the current I-1 zone.

minimum setbacks to be required from interior zoning lines in the IM zone (i.e., the zone that will replace the I-1 zoned portion of the Property), or in any other zone.

We would respectfully ask the Council to confirm this interpretation, because the development standards for the IM Zones in Section 4.7.4.C specifically require side and rear setbacks from abutting non-industrial zones. If the Council believes there is any potential for ambiguity, we recommend using the technical revisions listed in Exhibit D, attached hereto, to address the issue.

Given that much of the existing development is a single, interconnected building that crosses the zoning line, setbacks from the EOF portion of the site would be impossible today and unworkable for the future. (See Building Outline on Exhibit C).

3. Land Uses. The existing Zoning Ordinance permits a variety of uses by right in the O-M and I-1 zones, including office, research and development, laboratory, manufacturing, and warehouse/distribution uses. The Zoning Ordinance, however, has not treated these zones consistently in terms of the specific land uses permitted in each. As previously stated, QIAGEN's existing building, the current construction, and future uses on the Property have always been deliberately and carefully programmed and placed within the O-M or I-1 zoned portions of the Property in a manner so as to maintain compliance with the specific Zoning Ordinance requirements for each zone based on each specific use to be implemented.

The Zoning Ordinance Rewrite — by converting existing zones to new zones, redefining certain land uses, and establishing certain uses as limited uses within specific zones — alters the scheme of uses currently permitted on the Property.

The proposed use category "medical/scientific manufacturing and production" (Section 3.6.4.D.1) appears potentially broad enough to encompass the full range of functions that have been approved on the Property. However, individual uses that comprise parts of the overall use are often "limited uses" in the IM on the EOF zones. If the conditions applicable to those discrete "limited uses" were to be more broadly applied, they could preclude or limit certain approved (and expected) functions on the Property, as noted below. Clarification is needed that the "medical/scientific" category will, in fact, control.

- a. Research and Development uses are allowed only as limited uses within the EOF zone (the current O-M zoned portion of the Property). Section 3.5.8.C.2.b limits the maximum amount of gross floor area that may be used for assembly, packaging, and servicing of resultant products.
- b. For Storage Facility uses, allowed only as limited uses within the EOF zone (the current O-M zoned portion of the Property), Section 3.6.8.E.2.b only allows a facility up to 10,000 square feet.

- c. For Office Uses, which would be allowed only as limited uses within the IM Zone (the current I-1 zoned portion of the Property), Section 3.5.8.B.2.ii only allows a maximum of 35% of the mapped FAR to be for office use.

To remedy this problem, the Use Table in Article 3 of the ZTA should be changed to make all the foregoing uses "Permitted" uses in each of the IM and EOF zones that are mapped on the Property. Only in this way can continuation of the split-zoned character function effectively for QIAGEN and its integrated operation that is comprised of multiple activities. In addition, we have attached to this letter as Exhibit D suggested revisions which we believe to be necessary for clarification of this issue.

We have no information as to Planning Department Staff's progress in evaluating this this issue. We believe, however, that the Council should revise the DMA and ZTA to provide corrections and additional clarification on the above issues, so that the QIAGEN buildings remain conforming to their zones by actual fact, not solely by act of law (i.e., grandfathering). For this Property, the County should only apply zones whose standards are consistent with the character of the existing and approved development. If this cannot be accomplished with certainty through the DMA, we would suggest that the Council consider applying new zoning classifications via Sectional Map Amendments associated with discrete master or sector plans. In this way, the Council would be better positioned to evaluate the potential impacts of the necessary rezonings, and to protect against the potential for unintended or inadvertent consequences to result from any such actions.

- c. Eliminate Split-Zoning.

Even if the DMA and ZTA issues can be revised today, the split-zoning of the Property can be anticipated to continue to create fundamental problems for QIAGEN's continued expansion and long-term use of the Germantown Business Park. We therefore suggest that the County use the DMA as an opportunity to apply a single, unified zone to this important Property. With our proposed revisions to the DMA and ZTA to address the issues outlined herein, we would suggest that the IM Zone would be an appropriate single zone for the Property.

III. CONTINUING PROTECTIONS (GRANDFATHERING).

- a. Buildout and Amendments.

Robust grandfathering provisions are needed to protect QIAGEN's long-term interest in, and gradual implementation of, the buildout of the Germantown Business Park. Grandfathering provisions should provide for the ability to amend existing plans and development in accordance with the provisions of the Zoning Ordinance prior to the enactment of the ZTA, without limitations on the time period within which such amendments may occur. The biotech industry is continually evolving, and changing needs causing related physical plant changes is the norm. The multiple amendments to date at QIAGEN evidence this reality.

- b. Expansion.

In addition to the ability to implement and amend for changing needs, the grandfathering provisions should provide for enlargements of floor area under the prior standards up to the

November 21, 2013

Page 6

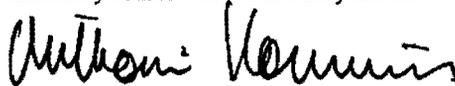
amount of the allowable trip envelope, whether or not the full extent of approved floor area has been subject to a previous site plan approval or actually constructed as of the date of adoption of the ZTA.

The amount of building floor area permitted for the Germantown Business Park has always been controlled by (1) the peak hour trip envelope established at the time of Preliminary Plan approval, and (2) the related APF determination. Even after QIAGEN implements the most recent Site Plan Amendment, there will be remaining unused development capacity (trips) that will allow additional development to occur within the approved trip capacity for the Property. Given the inherent unpredictability of the biotech industry, and QIAGEN's demonstrated ability to leverage the entitlements for the Property so as to take advantage of emerging market opportunities, QIAGEN's ability to draw on this remaining trip capacity to support additional development should be protected for the future.

We thank you for your consideration of these issues. Please do not hesitate to contact us if additional information would be useful.

Very truly yours,

LERCH, EARLY & BREWER, CHTD.



William Kominers



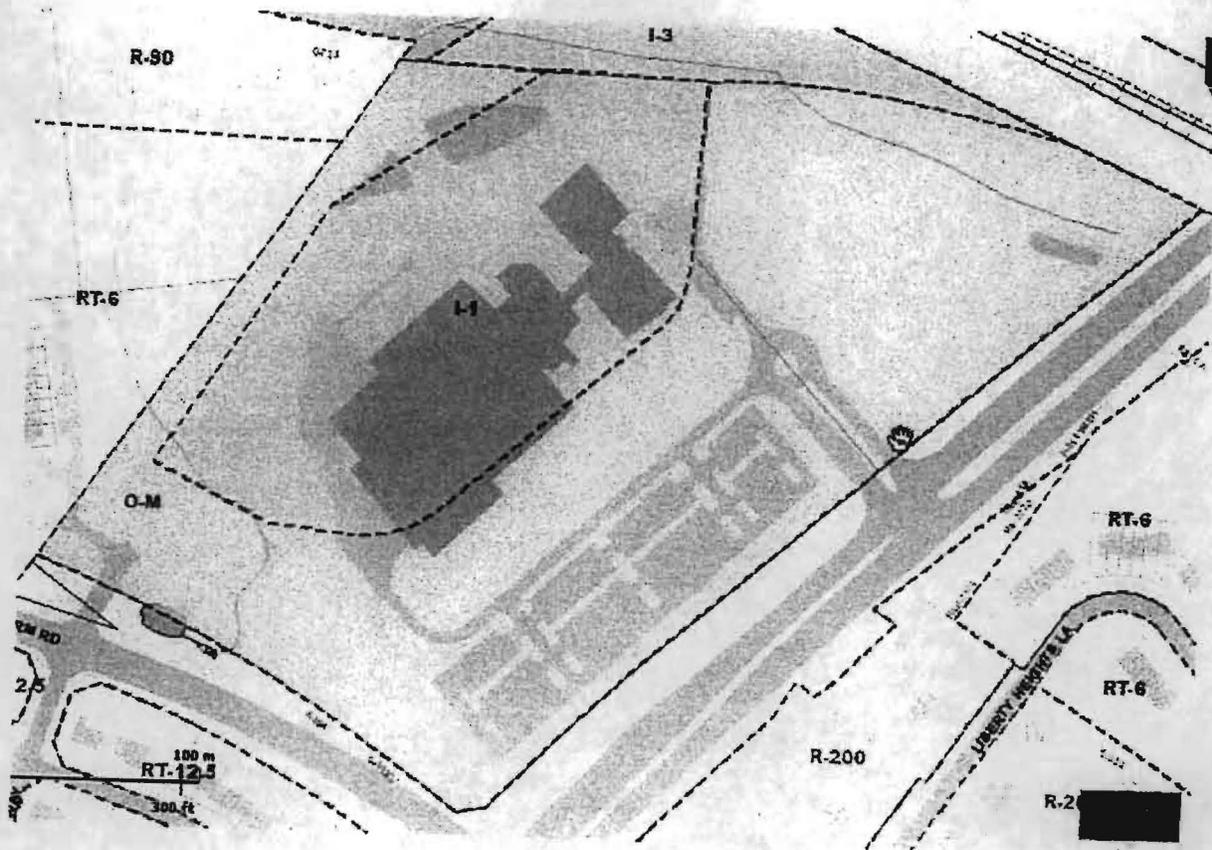
Christopher M. Ruhlen

WK/paj

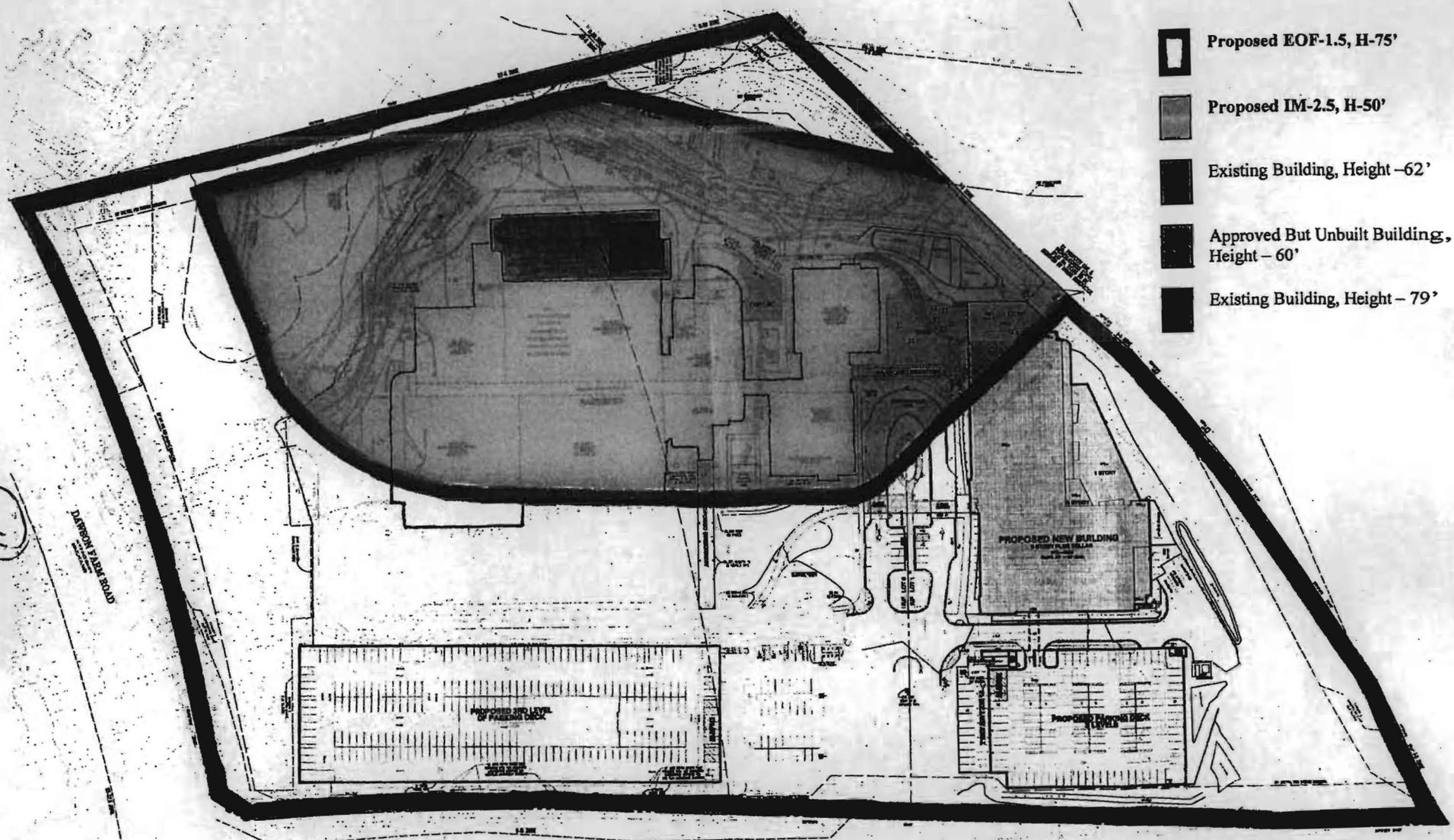
Enclosures

cc: The Honorable Nancy Floreen
The Honorable Marc Elrich
The Honorable George Leventhal
The Honorable Craig Rice
The Honorable Roger Berliner
The Honorable Valerie Ervin
The Honorable Phil Andrews
The Honorable Hans Reimer
Mr. Paul Nevins
Mr. Steve Silverman
Ms. Janis Pitts
Ms. Pam Dunn
Mr. Matt Johnson
Jeffrey Zyontz, Esquire

EXHIBIT A



EXISTING ZONE



-  Proposed EOF-1.5, H-75'
-  Proposed IM-2.5, H-50'
-  Existing Building, Height -62'
-  Approved But Unbuilt Building, Height -60'
-  Existing Building, Height -79'

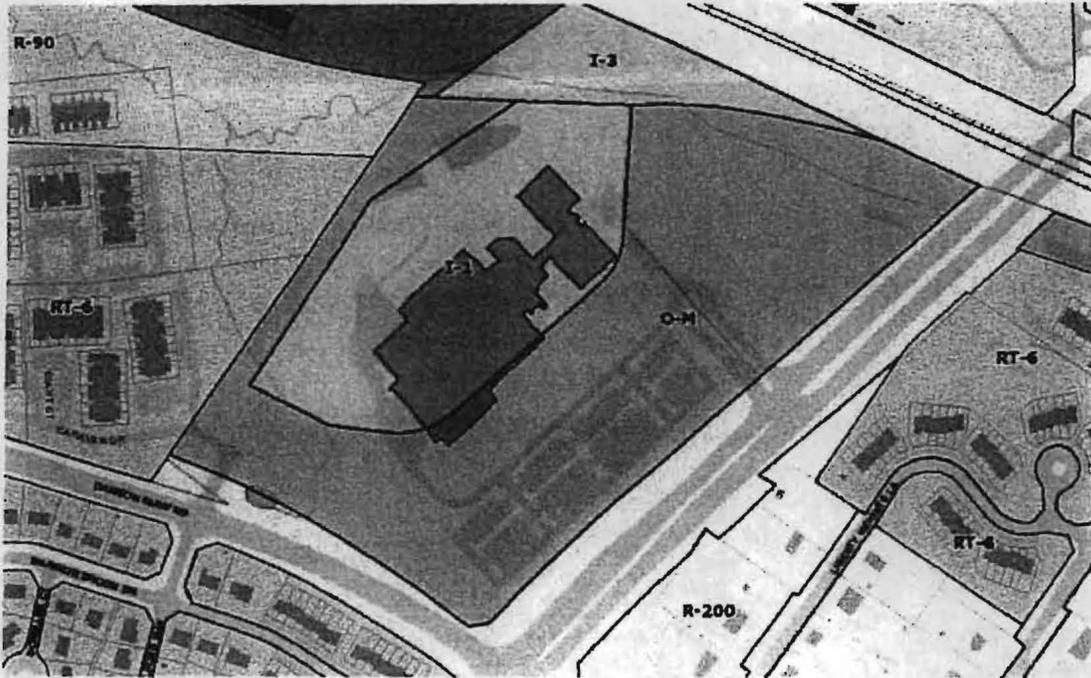
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DUNSON PARK ROAD

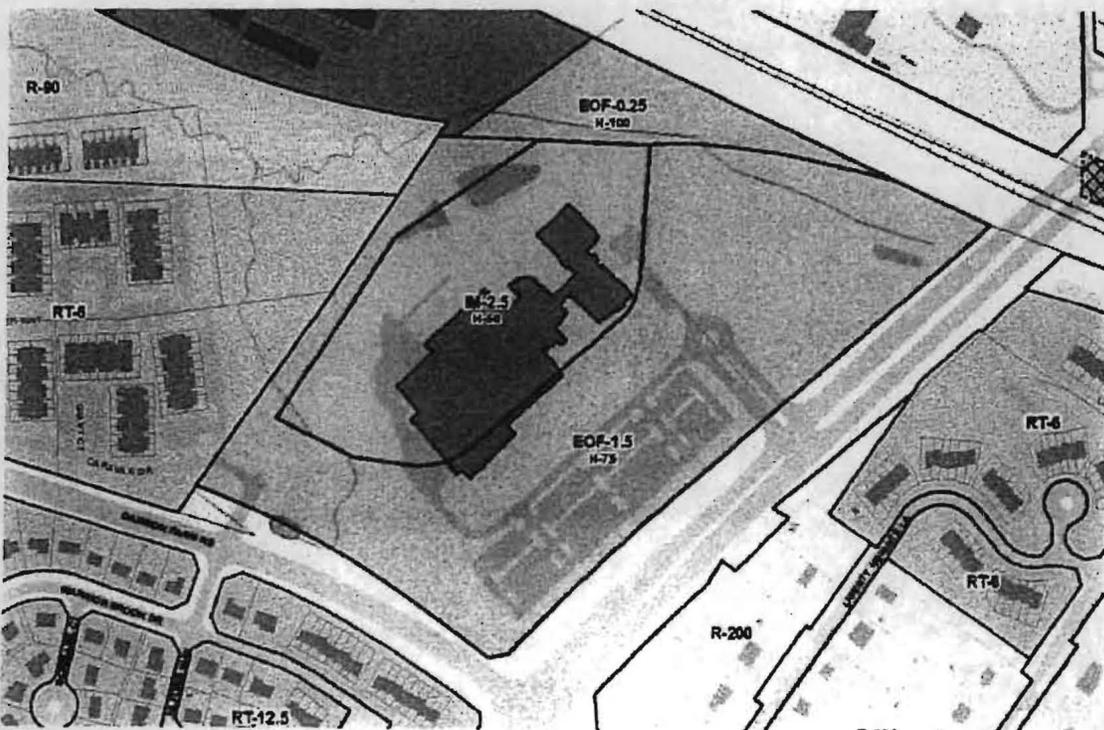
GERMANTOWN ROAD (MD. ROUTE 118)

EXHIBIT B
 BUILDING HEIGHTS &
 PROPOSED ZONING

EXHIBIT C



EXISTING ZONE



PROPOSED ZONE

EXHIBIT D

Proposed Technical Corrections

1. Setbacks – Revise Section 4.7.4.C as follows:

C. Placement

Principal Building and Accessory Structure Setbacks (min)

Front setback <u>from lot lines</u>	10'	10'
Side street setback <u>from lot lines</u>	10'	10'
Side setback, <u>from lot lines</u> abutting Agricultural, Rural <u>Residential</u> , or Residential zones	[see Sec. 7.4.3] <u>See Section 4.1.6.A</u>	[see Sec. 7.4.3] <u>See Section 4.1.6.A</u>
Side setback, <u>from lot lines</u> abutting Industrial zones	0'	0'
Side setback, <u>from lot lines</u> abutting all other zones	10'	10'
Rear setback, <u>from lot lines</u> abutting Agricultural, Rural <u>Residential</u> , or Residential zones	[see Sec. 7.4.3] <u>See Section 4.1.6.A</u>	[see Sec. 7.4.3] <u>See Section 4.1.6.A</u>
Rear setback, <u>from lot lines</u> abutting Industrial zones	0'	0'
Rear setback, <u>from lot lines</u> abutting all other zones	10'	10'
Rear setback, <u>from lot lines</u> abutting alley	0'	0'

[CONTINUED ON FOLLOWING PAGE]

2. Land Uses – Revise the following Sections in Chapter 59-3 as indicated:

- a. Section 3.5.8.C.2.b (Office and Professional, Research and Development) – A maximum of 30% of the gross floor area may be used for assembly, packaging, and servicing of resultant products, unless the Research and Development use is part of a Medical/Scientific Manufacturing and Production facility that is otherwise a permitted use in the zone.
- b. Section 3.6.8.E.2.b (Warehouse, Storage Facilities) -- In the CRT, CR, and EOF zones, only a facility up to 10,000 square feet of gross floor area is allowed, unless the Storage Facility use is part of a Medical/Scientific Manufacturing and Production facility that is otherwise a permitted use in the zone.
- c. Section 3.5.8.B.2.ii (Office and Professional, Offices) – In the IL and IM zone, a maximum of 35% of the mapped FAR may be for Office use or a combination of Office, Retail/Service Establishment, or Restaurant uses, unless the Office use is part of a Medical/Scientific Manufacturing and Production facility that is otherwise a permitted use in the zone.



PLEASANTS DEVELOPMENT, INC. 24012 Frederick Rd. | Suite 200 | Clarksburg, MD 20871 | 301 428-0800 | F 301 428-1736

June 27, 2014

Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, MD 20850

RE: District Map Amendment Application No. G-956;
Request to Participate in PHED Work Sessions on July 3 and 10, 2014

Dear President Rice and Members of the County Council:

I have reviewed the changes proposed by District Map Amendment G-956 for a number of properties that are owned by myself and/or entities that I represent in Montgomery County.

Attached is an exhibit with a complete listing of these properties.

The changes proposed for these properties may necessitate participation by me or my representatives at the upcoming work sessions. We are currently evaluating the impact of the zoning changes shown on DMA G-956 and will be able to address the changes in detail by addressing the potential negative impacts of the DMA proposed zoning both in writing for inclusion in the record and we also request the opportunity to participate in the scheduled work sessions in order to address potential problems.

Sincerely,

A handwritten signature in black ink, appearing to read "William D. Pleasants, Jr.", written over a horizontal line.

William D. Pleasants, Jr.

CC: Clark Wagner
Jerry Connelly
Stephen J. Orens, Esquire

Enclosure: Property Listing Exhibit

EXHIBIT "A"

**Montgomery County, Maryland
Schedule of Parcels**

Owner	Parcel Description / Address	Parcel or Plat	Tax ID Number
Gunners Lake 13, LP	Northlake Commerce Center - 12850 Middlebrook Road	Lot 1, Parcel N774	09 03315661
Gunners Lake 13, LP	Northlake Commerce Center - Middlebrook Road	Lot 2, Parcel N844	09 03315672
Gunners Lake 13, LP	Northlake Commerce Center - Middlebrook Road	Lot 3, Parcel N849	09 03315683
Gunners Lake 13, LP	Northlake Commerce Center - Crystal Rock Road	Lot 4, Parcel N902	09 03315694
Gunners Lake 13, LP	Northlake Commerce Center - Middlebrook Road	Lot 5, Parcel N954	09 03315706
Quince Diamond, LP	555 Quince Orchard Road; West Diamond	Plat 16688	09 02734261
Pleasants Investments Limited Partnership	Friend in Need - also known as Spates property	P274	06 00405641
Pleasants Investments Limited Partnership	Part of Parcel A, 13520 Clopper Road	N210	06 03282924
Pleasants Investments Limited Partnership	Final Conclusion, Pleasant View, Germantown Road	P322	06 01483728
Pleasants Investments Limited Partnership	Friend in Need , Germantown Road, Residue	P536	06 02687740
Pleasants Investments Limited Partnership	Crownsgate Circle	Plat 20388	06 03179655
Kingsview Development, LLC	Kingsview Village, Leaman Farm Road	Plat 23144	06 03484165
Kingsview Development, LLC	Kingsview Village, Germantown Road	Plat 23144	06 03484154
Deer Harbor Investments, LLC	18610 Liberty Mill Rd	P220	06 00396261
Lorax Forest, LLC	Buckboard Court	Outlot 35	10 00893574
Lorax Forest, LLC	Brickyard Road	Parcel 534	10 00853408
Lorax Forest, LLC	Brickyard Road	Parcel 316	10 00853363
Lorax Forest, LLC	River Falls Road	Parcel 124	10 00853396
Pleasants Investments Limited Partnership	Old Hundred Road / Wild Cat Springs & Wards Inheritance & Wards Struggle	P250	02 00027134
Dawn Investments, LLC	11201 Stewart Lane, Yorkshire; 1730 Whitehall Drive	P158	05 00264017
Dawn Investments, LLC	11315 Stewart Lane, Yorkshire	P082	05 00269214
Dawn Investments, LLC	11327 Stewart Lane, Yorkshire	P056	05 00258654
Dawn Investments, LLC	Stewart Lane, Yorkshire	P110	05 00264176
Dawn Investments, LLC	Stewart Lane, Yorkshire	P108	05 00264187
Buck Mountain Investments, LLC	Stewart Lane	P299	05 00265331
William D. Pleasants, Jr., William D. Pleasants, Sr.	Frederick Road - Money's Worth		02 00027681
William D. Pleasants, Jr.	24100 Frederick Road - Fisher Major	N15	02 00020133
William D. Pleasants, Jr.	Frederick Road - Fisher Minor	N987	02 01596078
William D. Pleasants, Jr.	24024 Frederick Road - Beem B	N93	02 01482906
William D. Pleasants, Jr.	15408 Conrad Spring Road		02 03051687
Pleasants Investments Limited Partnership	24012 Frederick Road - Beem C	N125	02 02543305
Pleasants Excavating, Inc.	Frederick Road	N874	02 03402553
Pleasants Excavating, Inc.	24120 Frederick Road	N876	02 03402542
William D. Pleasants, Jr. Year 2003 Trust for Descendants	12701 Piedmont Road	P541	02 00029111
William D. Pleasants, Jr. Year 2003 Trust for Descendants	Piedmont Road	P594	02 01488242



MEMORANDUM

TO: Jeff Zyontz, Esquire, Legislative Attorney
FROM: Stephen J. Orens on behalf of Pleasants Development, Inc
RE: Kingsview Station – Follow Up Details on Request for Rezoning Via District Map Amendment G-956
DATE: June 30, 2014

On June 27, 2014 Clark Wagner on behalf of Pleasants Development, Inc., requested that the PHED Committee address the Kingsview Properties located at Clopper Road (MD Route 117) and Germantown Road (MD 118) at its July 3, 2014 worksession. As discussed by phone, this memorandum details the basis for Mr. Wagner’s request.

I. Kingsview Properties (P274, N210, P322, P536, and P220 and Mumma Family Trust Parcel P330)

The Kingsview Properties are currently classified in the R-200 zone and recommended for development by the approved and adopted Germantown Master Plan pursuant to the PD-11 Zone. In 2007 a local map amendment application (LMA G-867) seeking the PD11 zone was submitted and subsequently withdrawn without prejudice in 2008 due to circumstances that are no longer relevant.

The Planned Development (“PD”) zones found in the 1972 Zoning Ordinance have been eliminated by the new Zoning Ordinance that will become effective on October 30, 2014. The planning and development analysis required for the Kingsview Properties precluded Pleasants’ submitting a new PD-11 Local Map Amendment application before the May 1, 2014 submission deadline for consideration under the 1972 Zoning Ordinance.

The zoning translation tables that will serve as the basis for the District Map Amendment do not identify an “equivalent” new zone to replace the prior PD-11 zone further complicating the initial zoning step in the development approval process. In the absence of an equivalent translation zone to replace the PD-11 zone Pleasants has requested the PHED Committee’s consideration of recommending that the County Council reclassify the Pleasant Properties via the DMA to the Euclidian CRN zone. Designation of these significant Germantown properties to the CRN zone would implement the land use and zoning recommendations of the 1989 Germantown Master Plan in the context of the land use policies of the new Zoning Ordinance Text and Zoning Map.

The Kingsview Properties are adjacent to Kingsview Village within the “Clopper Village” Analysis Areas identified in the 1989 Germantown Master Plan, specifically Analysis Area CL-6. The Kingsview Properties are located at the pivotal intersection of Clopper Road, Route 117 and Germantown Road, Route 118. That location coincides with the eastern edge of Analysis Area CL-6. The 1989 Germantown Master Plan describes the eastern portion of CL-6, in relevant part, as follows:

“The 42-acre eastern portion of the Analysis Area is recommended to include a Village Center to serve Kingsview Village at the southern quadrant of the intersection of MD 118 and Clopper Road. Due to existing and planned development and significant environmental constraints, no appropriate site for a Village Center could be located in Kingsview Village and **it was necessary, therefore, to identify a site in Clopper Village (the Kingsview Properties) that is accessible to Kingsview Village residents. The proposed Village Center should include up to 170,000 square feet of retail development and professional office space with most of the area (approximately 90%) devoted to retail uses. The entire eastern portion of the Analysis Area is recommended for rezoning to the PD-11 Zone. The portion of the eastern section of the Analysis Area not developed as the Village Center is recommended for garden apartments at a density of 11 units per acre.** In addition, a park-and-ride facility should be developed in the eastern portion of the Analysis Area.” (1989 Master Plan Page 64.) (Emphasis added.)

A Master Plan overview prepared by M-NCPPC Staff in connection with the preparation of the approved and adopted Germantown Employment Area Sector Plan recounted that the 1989 Master Plan identified the 741 acre Clopper Village Analysis Area as having “Predominantly attached housing.” According to the 2008 Germantown Housing Report attached as an exhibit to the Germantown Employment Area Sector Plan:

“Germantown is a working community, with housing affordable to the workforce. In addition to integrating residential uses into the town center, **future development must provide affordable housing for new workers as well as residents aging in place.**” (Emphasis added.)

The 2008 recommendations for areas not included in the new Germantown Employment Area Sector Plan include recommendations to:

“Build transit-oriented workforce housing—reduce the costs associated with getting to work. While the Town Center is key to the future vitality of Germantown, workforce housing can also be placed along the new transit corridor or near the MARC station.

Accommodate the anticipated large increase in the number of residents and workers 55 years of age and older, who wish to age in place.” (Technical Appendix page 17.)

Also according the 2008 Housing Report:

“Adding commercial uses that incorporate residential under mixed-use zoning will greatly increase the vitality of this corridor city, while offering convenient living opportunities for a variety of household types.” (Technical Appendix page 17.) (Technical Appendix page 17.)

The inference to be drawn from the 1989 Master Plan, the Housing Report, and the other documentation used to support the Germantown Employment Area Sector Plan, is that a mix of commercial and reasonably priced economically affordable residential housing would implement the planning objectives of the 1989 Germantown Master Plan in the context of current housing needs as recognized by the 2008 Housing Report. Reclassification via the pending DMA implements that policy objective.

A zoning anomaly, as applied to the Subject Properties, exists because of the provision in the new Zoning Ordinance requiring that a Local Map Amendment application for a discontinued zone that is still pending on October 30th automatically converts to the equivalent zone as translated under DMA G-867. The zoning anomaly is due to the fact that there is no equivalent zone identified in the zoning translation table for the conversion of any PD zone. Under these circumstances we contend that the only method by which to implement a Euclidian zone consistent with the mixed use Master Plan recommendation is to include the rezoning to the Euclidian CRN as part of the pending DMA.

II. 24012, 24024, 24100 and 24120 Frederick Road.

In addition to the Kingsview Station Property, Pleasants also requests that the PHED Committee address the proposed translation of the I-1 zone to the IM zone of the previously improved industrial properties located at 24012, 24024, 24100 and 24120 Frederick Road. These currently underdeveloped properties should be mapped for redevelopment, possibly as an assemblage, at the maximum density permitted in the IM zone. Existing development reflects a snapshot of what was once appropriate to accommodate Pleasants needs but would be considered less than ideal if redeveloped now.

III. The C& D Recovery Property.

The C& D Recovery property located at 24120 Frederick Road, is proposed for rezoning from the RS Zone to IM Zone as a limited use. This facility provides a significant service by processing construction debris materials here in Montgomery County, reducing both truck traffic and landfill usage. This existing recycling facility is a limited use in the new IM zone. The use standard allows existing construction debris recycling facilities in the IM zone to continue and expand as a permitted use subject to the IM zone development standards. Pleasants agrees with this classification under the new limited use standards.

IV. North Lake Commercial Center.

The North Lake Commercial Center is located at the intersection of Middlebrook Road and Crystal Rock Drive in Germantown. The North Lake Properties are partially developed with commercial office uses under the TMX-2 zone. This property is also underdeveloped and its use is in flux. The CR Zone is the proposed translation zone for the North Lake Commercial Center. Our initial review of the zoning comparison chart indicates that that the CR Zone would provide for appropriate redevelopment or further development of the property provided that the zone

Page 4

depicted on the map does not restrict future development to what may have been previously approved at the zoning, subdivision or site plan review stages of approval. This strategic property needs to be available to accommodate additional development to meet the ongoing needs of the community.

We appreciate this opportunity to provide this additional information and we will be present at the worksession to respond to any questions that the PHED Committee may have.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Stephen J. Orens", is written over a horizontal line. A vertical line extends downwards from the end of the signature.

Stephen J. Orens

Law Offices Of
MILLER, MILLER & CANBY
MM&C
CLIENT FOCUSED. RESULTS DRIVEN.

200-B MONROE STREET, ROCKVILLE, MARYLAND 20850 P: 301.762.5212 F: 301.424.9673 WWW.MILLERMILLERCANBY.COM

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JSKLINE@MMCANBY.COM

July 1, 2014

Planning, Housing & Economic Development Committee
of the Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, MD 20850

RE: District Map Amendment DMA G-956,
Comments on Item 4 – “Binding Elements”
discussed in the Staff Report dated June 5, 2014
 (“Worksession – District Map Amendment (DMA) G-956”)

Dear Ms. Floreen and Messrs. Elrich and Leventhal,

We would like to add our comments to the PHED Committee discussion about the treatment of properties that are rezoned with development plans that do not specifically limit (“binding elements”) height or density. (See the discussion on this subject on pages 4-6 of the Staff’s June 5, 2014 Report).

In our particular case, our client rezoned its property to the TS-M classification in 1978, and amended the Development Plan to add more density in 1983. The TS-M zone allows a maximum of 3.0 FAR. In neither application were binding elements affixed to the development plan approval, nor was there any citizen opposition that caused the applicant, or the Council, to impose any restrictions on the development potential of the property. During the rezoning and development plan amendment process, the applicant voluntarily submitted plans showing buildings containing only 43% of the maximum density allowed in the TS-M zone simply because the property owner felt that was all of the density that the market could accept at that time. Had the property owner realized that it later would be given a replacement zone, the density of which was equal to what it had asked for, not what it could ask for, it would have presented plans showing the full 3.0 FAR allowed under the TS-M zone in order to preserve its right to that maximum development density.

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DMA G-956 originally proposed to convert the existing TS-M zoning to the CR-3.0, C-2.5, R-2.5, H-200 T as being the closest equivalent zone to the TS-M zone. Since that time however, Staff at MNCPPC has twice reduced the zone recommendation in DMA G-956, first to CR-1.5, C-1.5, R-0.25, H-80 T and then, most recently to CR-0.75, C-0.75, R-0.25, H-80 T based on the actual square footage approved and built rather than on the maximum density permitted in the TS-M zone.

Our client can understand the logic of converting existing floating zones to a replacement zone with density and height restrictions equal to binding elements in the zoning or development plan amendment approvals because the zoning would not have been placed on the property without those binding elements. But when the zoning history of a property does not contain binding elements, then the zone to which a property should be converted under DMA G-956 should incorporate the maximum development standards allowed under the existing base zone.

In the event that the Committee believes that there needs to be even more distinctions between whether a rezoning application/DPA contains binding elements or not, we believe that there are factors other than the treatment of binding element related to our client's property at the intersection of Shady Grove Road and Maryland Route 355 that warrant special consideration. Those distinguishing factors include:

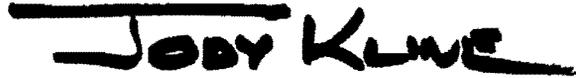
1. Exhibit 37, entitled "Proposed Sectional Map Amendment" from the adopted and approved Shady Grove Sector Plan of April, 1977 (attached) shows that our client's land area was to be rezoned to the TS-M classification through the comprehensive rezoning that was to follow adoption of the Shady Grove Plan.
2. The text found on page 137 of the adopted and approved Sector Plan (attached) states:

"After approval and adoption of the Sector Plan, a Sectional Map Amendment will be prepared by the Montgomery County Planning Board of M-NCPPC, reflecting this zoning pattern and effective the comprehensive rezoning of the area in accordance with the Master Plan. As previously mentioned, this Comprehensive Sectional Map Amendment includes rezoning all the Sector Plan area to the ultimate zoning pattern analysis...". (emphasis added)
3. Local Map Amendment Application No. G-7 rezoned our client's property to the TS-M zoning by Resolution 8-1717 of the County Council adopted January 10, 1978.
4. SMA Application No. G-78, implementing the zoning recommendations of the Shady Grove Sector Plan, was also adopted on January 10, 1978. The Resolution of the County Council approving SMA No. G-78 notes that the SMA reaffirmed the TS-M zoning for our client's property via Application No. G-7 approved simultaneously with SMA No. G-78.

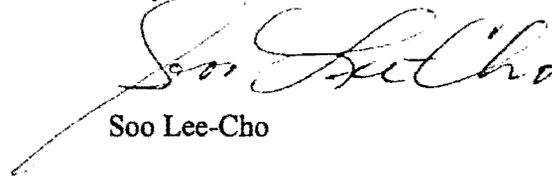
In summary, had our client elected to take advantage of the comprehensive rezoning to the TS-M classification as was contemplated in the "Implementation" section of the Sector Plan, the subject property would have been automatically rezoned to the TS-M classification and there would have been no development plan associated with the rezoning that would have shown proposed building elements that are now being suggested as limitations to the appropriate and maximum density permitted under the new CR zone to be placed on the property. Therefore, since the comprehensive rezoning was accomplished on the same day that the local map amendment was approved, then these factors mean that Rezoning Application No. G-7 was a nonessential act and should not be used to limit the density on new CR zoning to be placed on the property nor to penalize the applicant years later because it didn't ask in 1977 for all of the development potential to which it was entitled under the TS-M zone.

Sincerely yours,

MILLER, MILLER & CANBY

A bold, black, handwritten signature that reads "JODY KLINE".

Jody S. Kline

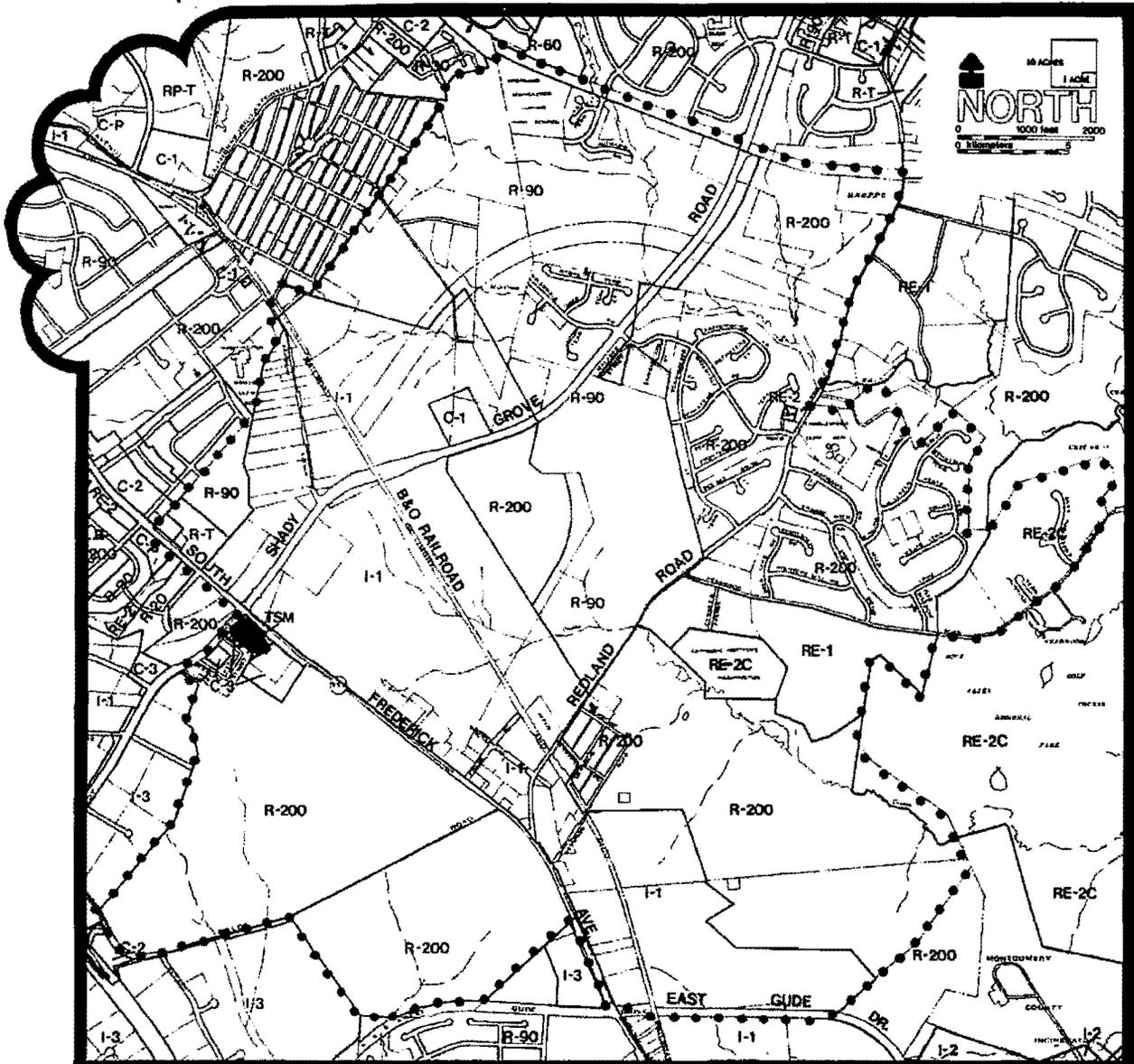
A handwritten signature in cursive script that reads "Soo Lee-Cho".

Soo Lee-Cho

JSK/blm
Enclosures

cc: Jeff Zyontz
Pamela Dunn
ProMark Real Estate

FIGURE 37



Single Family	Commercial
RE-2	C-P
RE-2C	C-1
RE-1	C-2
R-200	C-3
R-90	
R-60	
Multi Family	Industrial
R-T	I-1
RP-T	I-2
R-30	I-3
R-20	
●●●●● Sector Plan Boundary	

**Proposed
Sectional
Map
Amendment**

SHADY GROVE
SECTOR PLAN
THE MONTGOMERY COUNTY PLANNING BOARD

10.22 Sewer Service

Figure 38 indicates the sewer service categories in and around the Shady Grove Sector Plan area. About one-half the area has sewerage service at present. This includes the Mill Creek subwatershed and its tributaries. The Crabb's Branch subwatershed does not have sewerage, except for the county service park site. Sewer service for the county service park will be provided by a pumping station which will pump sewage into the Watts Branch sewerage system.

The Crabb's Branch trunk sewer service area was placed in the S-3 category in July 1976, indicating service within two years. The placement of this area in the S-3 category is endorsed, and, since Redland-Fields Road, the Metro station, and storm-water management plans are now being developed, adequate funds should be provided this fiscal year (FY-77) for the Washington Suburban Sanitary Commission to design the sewer in conjunction with the design of these other projects.

As soon as additional sewerage service capacity is available for the Rock Creek basin, service should be provided to the public facilities in the Crabb's Branch subwatershed. These facilities include the county service park, Metro station and storage and inspection yard, and the proposed central processing facility. As sewer service is provided via the Crabb's Branch sewer, use of the pump over in the Watts Basin should be discontinued.

Private development in the Crabb's Branch subwatershed should be provided sewer service as soon as capacity is generally available in the Rock Creek Basin. The provision of sewer service to private development in this area should be subject, however, to County policy allocating sewer service throughout the Rock Creek Basin. This should not preclude private developers' obtaining sewer service through use of a private consortium sewage plant or by any other means.

10.23 Sectional Map Amendment

The proposed Land Use Plan (inserted map) describes the recommended ultimate land use pattern. The proposed zoning and highway plan designates the recommended ultimate zoning pattern and highway plan. The zoning pattern shown in Figure 37 indicates the zoning pattern desired by 1984. After approval and adoption of the sector plan, a sectional map amendment will be prepared by the Montgomery County Planning Board of M-NCPPC, reflecting this zoning pattern and affecting the comprehensive rezoning of the area in accordance with the sector plans. As previously mentioned this comprehensive sectional map amendment includes rezoning all the sector plan area to the ultimate zoning pattern analysis area 28. This area is proposed to be maintained in its present R-200 zoning. Rezoning to I-3 on the King farm would be appropriate only after the projects listed in the "High Priority Improvements Projects" listing and the extension of West Gude Drive from Md. 355 to Research Boulevard are in place. A large amount of traffic is anticipated to be generated by I-3 development on this property, and these transportation facilities will be essential to the successful functioning of this area.



10.3 IMPLEMENTATION RECOMMENDATIONS

* Facilities located in the County Service Park should meet the urban design guidelines indicated in Chapter 9, so as to enhance and not jeopardize the existing