

AMENDED NOTICE REGARDING LOCAL MAP AMENDMENT APPLICATIONS FILED AFTER MAY 1, 2014

On March 4, 2014, the Council voted to approve a new Zoning Ordinance, effective October 30, 2014 (Ordinance No.: 17-43; Zoning Text Amendment No.: 13-04). Although the new law does not go into effect until October 30, 2014, Section 7.7.1.B.1. provides, in part that “. . . Any complete Local Map Amendment application submitted to the Hearing Examiner by May 1, 2014, must be reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014. . . .” Any LMA application filed after May 1, 2014, will have an OZAH hearing scheduled after October 30, 2014, and will go to the Council after that date. It will therefore be evaluated under the new Zoning Ordinance.

In order to avoid inordinate delays in the processing of new LMA applications, OZAH asked the M-NCPPC Technical Staff to evaluate LMA applications filed after May 1, 2014 under the new law. On May 13, 2014, by Resolution 17-1087, the District Council adopted interim fees solely for Local Map Amendment applications filed from May 2, 2014 – October 29, 2014. Those fees are posted on this website and are in effect through October 29, 2014. On July 15, 2014, by Resolution No.: 17-1168, the Council approved a comprehensive fee schedule for all applications filed with OZAH on and after October 30, 2014. That fee schedule is also set forth on this website.

To facilitate processing of LMA applications filed after May 1, 2014, the following Checklist describes what an Applicant must file under the new law, and where to go for a pre-filing review of completeness under the new law:

CHECKLIST FOR LOCAL MAP AMENDMENT (LMA) APPLICATIONS

Requirements for Local Map Amendment (LMA) Applications:

Applicant must submit four sets of its application and documents to the Maryland-National Capital Park and Planning Commission (M-NCPPC) Technical Staff, at 8787 Georgia Avenue, Silver Spring, (301) 495-4610, www.montgomeryplanning.org, for its assessment and certification of completeness. *Twenty-five percent of the filing fee approved by the District Council must be paid directly to the Planning Department when the application is submitted for verification of completeness.* Payment of the remaining 75% of the filing fee and the entire sign fee approved by the District Council must be included with the application when it is filed with OZAH. Once Technical Staff certifies completeness of the application, the applicant must file the certified original and fees with the Office of Zoning and Administrative Hearings (OZAH), which will accept the application and establish a hearing date. OZAH will maintain the original certified application and the file; three complete copies of the application will be retained by M-NCPPC Technical Staff for its review and recommendation on the merits.

As provided in Section 7.2.1.B.1. of the 2014 Zoning Ordinance, the applicant must be a government agency, own the subject property, or be authorized by the owner to file the application. If any land or right-of-way is owned or controlled by the State, County, or any other entity or agency, the applicant must submit written authorization from that entity or agency with the application.

The documents to be submitted by Applicant are:

1. An application form and fees approved by the District Council. The application must show the name and address of applicant, lot and block and/or subdivision, address of the property, tax account number(s), the election district, the present zoning, and the requested new zone. If the applicant is not the owner, the applicant must submit documents showing the applicant's authorization to file the application. Attached to Application should be a *notarized statement* listing rezoning denials in the past three years.
2. The identity of each person who has a substantial interest in the property under the application, including any person with a share in the property amounting to 5% or more (whether held in an individual or corporate capacity) of the full cash value of the property after subtracting all mortgages, deeds of trusts, liens, and encumbrances. The application must also contain the names of any contract purchaser or person holding a mortgage, deed of trust, or option to purchase the property.
3. A statement disclosing political contributions to the treasurer or political committee of any candidate for County Council and County Executive or slate that contributes to candidates for County Council or County Executive, made by any person that is a title owner or contract purchaser of land that is the subject of an application, a trustee who has an interest in land that is the subject of an application, excluding trustees described in a mortgage or deed of trust; or a holder of 5 percent or greater interest in a business entity who has an interest in land that is the subject of an application. The applicant must submit the disclosure statement on a form approved by the District Council.
4. A statement explaining how the proposed development satisfies the criteria to grant the application. The applicant's Statement should also describe how the proposed plan complies with any existing approvals, and contain a summary of proof, including the names of applicant's witnesses, summaries of the testimonies of expert witnesses, and the estimated time required for presentation of the applicant's case.
5. A list of the owners of properties adjoining and confronting the subject property and a list of civic organizations and homeowners associations within a half mile of the site. If an adjoining or confronting property is a condominium, the applicant must provide the name and address of the Council of Unit Owners.
6. Certified Zoning Map (Vicinity): needs certification stamp & property highlighted
7. Identification Plat certified by surveyor, and **plat acreage must match the application exactly**; verify that Identification Plat has surveyor/engineer stamp, signed and dated by surveyor, and **property must be highlighted**.
8. A description by metes and bounds, courses and distances of land or, if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded in the land records of the County, then the lot, block, and subdivision designations with appropriate plat reference.
9. For a Floating zone, a Floating Zone Plan depicting:
 - i. building location, density, massing, height, and anticipated use;
 - ii. locations of open spaces and preliminary stormwater management strategy;
 - iii. pedestrian, bicycle, and vehicular circulation, parking, and loading;
 - iv. any binding element on the application. An applicant who proposes a binding element must submit an unexecuted covenant suitable for filing in the land records reflecting any restriction on the development standards, development program, or use that will be applicable to the property if the District Council approves the application; and
 - v. the following additional information:

- (a) current and proposed zone (proof of current zoning is satisfied by submission of the certified zoning map listed in Item 6);
- (b) a plan certified by a licensed professional, showing existing site conditions and vicinity within 100 feet, including total tract area; existing topography; watershed in which the site is located; Special Protection or Primary Management areas; any floodplain, wetland, or perennial or intermittent stream, and any associated buffers; whether or not rare, threatened or endangered species were observed on the property; whether or not the property is on the Locational Atlas and Index of Historic Sites; the aerial extent of forest and tree cover on the property; and date(s) field work was conducted;
- (c) existing or approved adjacent land uses, buildings, and rights-of-way;
- (d) a Traffic Study under the Planning Board's LATR Guidelines if the incremental increase in vehicular peak-hour trips between the density of the base zoning and the density of the requested floating zone meets the minimum applicability requirement in the LATR Guidelines; and
- (e) general phasing of structures, uses, rights-of-way, sidewalks, dedications, and future preliminary and site plan applications.

10. For a Euclidean zone application, exhibits showing:

- i. the subject property and the proposed neighborhood, identifying uses and zoning; and
- ii. an explanation of the changes that have occurred in the neighborhood since the original zoning or previous comprehensive rezoning, or evidence of the alleged mistake made by the District Council in the previous Sectional or District Map Amendment, in support of the requested Euclidean zone.

11. In addition to hard copies, applicants must submit, with their applications, electronic copies on a compact disc or DVD of all the materials required above. Hard copies and electronic copies must also be submitted of any changes in these materials at least 10 days prior to the hearing. Electronic copies must be submitted in Microsoft WORD format for text documents, and in PDF format for plans, photos and other non-text documents.

If previous Local Map Amendment applications were filed for the subject property, the following limitations are specified in Zoning Ordinance §59-7.2.1.G:

G. Subsequent Actions

- 1. Filing of subsequent Local Map Amendment applications are limited as follows:
 - a. Filing a Local Map Amendment application is prohibited for land that was in whole or in part the subject of a previous zoning application decided on its merits within the last 18 months.
 - b. Filing a Local Map Amendment application is prohibited for land that was in whole or in part the subject of a previous zoning application for the same zoning classification filed within the last 36 months and decided on its merits.
 - c. The time limitations in Section 7.2.1.G.1.a and Section 7.2.1.G.1.b do not apply when the previous application, which would bar the filing of a new application, was filed by a governmental agency not at the owner's request.
 - d. The District Council may waive the time limitations in Section 7.2.1.G.1.a if an applicant submits a petition that shows substantial new facts that would warrant reapplication.

Signature of Applicant

Subscribed and sworn before me this _____ day of _____, 20 _____.

Notary Public

Payment of appropriate filing fee must accompany this application. See Fee Schedule. Twenty-five percent of the specified fee must be paid directly to the Planning Department when this application is submitted for review of completeness. The remaining 75 per cent of the specified fee and all sign fees must be paid directly to OZAH when the application is filed with OZAH after it has been certified by the Planning Department.. No part of such fee shall be refunded unless such refund and amount thereof as provided in Section 59-7.6.5. B of the Zoning Ordinance.

Applicant is required to post the property covered by this application within 5 days from acceptance of filing in accordance with Zoning Ordinance Section 7.5.2.C, with a sign to be furnished by the Office of Zoning and Administrative Hearings. An affidavit of posting, as required by the Zoning Ordinance, must be presented at the hearing on the application.

Under Zoning Ordinance §59-7.2.1.B.7, new public notice must be provided for any modification to an application requesting an increase in the area proposed to be reclassified or requesting a change to the zoning classification.

***Identification Plat** – Plat prepared by civil engineer, surveyor or other competent person, certified by him to be correct, showing by metes and bounds, courses and distances the land proposed to be reclassified, or if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded in the land records of the County, then a copy of such plat, the land proposed to be reclassified appearing in a color distinctive from that of other land shown on the plat.

****Vicinity Map** – A map certified by the Maryland-National Capital Park and Planning Commission covering the area within 1000 feet of the boundaries of the land covered by this application showing the existing zoning classification of such land as it appears on the official zoning map in the office of the Department of Environmental Protection or the Maryland-National Capital Park and Planning Commission and all roads, streets, alleys, parks and other public or other governmental areas in public ownership or on public rights-of-way and those proposed on a plan adopted by the -National Capital Park and Planning Commission and all streams and railroad rights-of-way and the names thereof.

***If the land proposed to be reclassified lies in whole or in part within an area covered by a sectional highway or zoning plan map adopted by the Commission, then a copy of such map shall be submitted.

The scale of the identification plat and vicinity map shall be noted thereon and shall be not less than 200 feet to the inch if the land proposed to be reclassified is of an area of ten acres or less; and not less than 400 feet to the inch if of an area of more than ten acres. A north direction arrow shall appear on such plat and map.

**LOCAL MAP AMENDMENT APPLICATION
DISCLOSURE STATEMENT**
(Revised September 2, 2014)

State law requires that each and any Applicant for a local zoning map amendment, or Party of Record, who has made a contribution to a candidate for County Executive or County Council of \$500.00 or more, calculated cumulatively for the four-year election cycle either before the filing of the application or during the four-year cycle within which the application is pendent, must disclose the name of the candidate to whose treasurer, political committee, or slate the contribution was made, the amount and the date of the contribution.

A Disclosure Statement must be filed when the application is filed or within two weeks after entering the proceeding by a Party of Record and be updated within 5 business days of any contribution made after the filing of the initial disclosure and before final disposition of the application by the District Council. If more than one contribution is made, please specify in the space provided below each contribution and to whom it was made. **If more than one applicant is involved in a single application, each applicant must file this statement.**

Subject to the penalties of perjury, I, _____
(NAME OF APPLICANT FOR LOCAL MAP AMENDMENT
OR PARTY OF RECORD)

HEREBY AFFIRM that the contents of this statement are true to the best of my

knowledge, information and belief, and that: (SELECT EITHER 1 OR 2 BELOW AND CHECK
APPROPRIATE STATEMENT)

1. I HAVE made a contribution of _____
(FILL IN AMOUNT OF CONTRIBUTION IF \$500
OR MORE, OR STATE N/A IF NOT APPLICABLE)

on _____
(FILL IN DATE (MONTH, DAY AND YEAR) OF CONTRIBUTIONS),

to the following candidate's treasurer, political committee, or slate:

(FILL IN NAME OR NAMES OF CANDIDATE, OR STATE N/A IF INAPPLICABLE)
(If more space is required, use the back of this form.)

2. I HAVE NOT made a contribution requiring disclosure.

SIGNATURE OF DECLARANT

This Statement is filed in compliance with the public ethics requirements of Md. Code Ann, General Provisions, §§5-842 through 5-845; 2014 Md. Laws Ch. 94. Any violations of these provisions is a misdemeanor, and upon conviction, is subject to a fine of not more than \$1,000.

For convenience, several definitions in State law are contained on the reverse side.

Subscribed and sworn to me, a Notary Public for Montgomery County, Maryland, this

_____ day of _____, 20__.

NOTARY PUBLIC
My Commission Expires:

(B) Applicant.

(1)(I) “Applicant” means an individual or business entity that is:

1. a title owner or contract purchaser of land that is the subject of an application;
2. a trustee who has an interest in land that is the subject of an application, excluding trustees described in a mortgage or deed of trust; or
3. a holder of 5 percent or greater interest in a business entity who has an interest in land that is the subject of an application.

(II) “Applicant” includes, if the applicant is a corporation, the directors and officers of the corporation that actually holds title to the land, or is a contract purchaser of the land, that is the subject of an application.

(2) “Applicant” does not include:

- (I) a financial institution that has loaned money or extended financing for the acquisition, development, or construction or improvements on the land that is the subject of an application;
- (II) a municipal or a public corporation;
- (III) a public authority;
- (IV) a public service company acting within the scope Division I of the Public Utilities Article; or
- (V) a person who is hired or retained an accountant, an attorney, an architect, an engineer, a land use consultant, an economic consultant, a real estate agent, a real estate broker, a traffic consultant, or a traffic engineer.

* * *

(E) “Candidate” means an individual who wins an election to the Office of County Executive or County Council of Montgomery County.

* * *

(F) (1) (I) “Contribution” means:

- (1) A payment or transfer of money or property of \$500 or more, calculated cumulatively during a 4-year election cycle, to the treasurer of either a candidate or a political committee.
- (2) The incurring of any liability or promise of anything of value of \$500 or more, calculated cumulatively during a 4-year election cycle, to the treasurer of either a candidate or political committee.

(II) “Contribution” includes a payment or transfer to a slate with which a candidate is associated.

- (2) (I) Except as provided in subparagraph (II) of this subsection, the \$500 cumulative threshold contribution is calculated separately as to each candidate or elected official.
- (II) For purposes of this subtitle, a cumulative contribution of \$500 or more to a slate is fully attributed to each candidate on the slate.

NAME

ADDRESS AND TELEPHONE NUMBER

LOT

BLOCK

LOCAL CIVIC ASSOCIATION (NAME AND ADDRESS):

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS:

AFFIDAVIT OF POSTING

I HEREBY CERTIFY that I placed or caused to be placed upon the property which is the subject of Application No. _____ the sign furnished by the Office of Zoning and Administrative Hearings, that the sign was posted within five days after acceptance for filing of said application within ten feet of the property line in the most conspicuous location, and that the sign has been continuously maintained to the date of hearing.

I understand that the sign is to be maintained in the same position until after I have been notified of the Council's decision on said application, and that the sign is to be returned to the Council Office Building within five days thereafter.

APPLICANT

Subscribed and sworn to before me, a Notary Public for Montgomery County, Maryland, this _____ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires: _____

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR
MONTGOMERY COUNTY, MARYLAND

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6660

NOTICE TO APPLICANTS PROPOSING BINDING ELEMENTS IN A FLOATING ZONE PLAN

Under the provisions of Zoning Ordinance §59-7.2.1.B.2.e.iv., an applicant who proposes a binding element must submit an unexecuted covenant suitable for filing in the land records reflecting any restriction on the development standards, development program, or use that will be applicable to the property if the District Council approves the application.

Under the provisions of Zoning Ordinance §59-7.2.1.F.3.a,

- a. Before the close of the administrative record the applicant must submit to the Hearing Examiner an executed covenant that reflects any restriction on the development standards, development program, or use in the approved floating zone plan.
- b. The executed covenant must also state that the restricted development standards, development program, or use remain in full effect until the property is rezoned or the floating zone plan is amended and an amended covenant is executed and recorded.
- c. The applicant must file the executed covenant in the land records of Montgomery County within 10 days after approval of the application by the District Council and submit certification of such filing to the Planning Board with the site plan application. The Planning Board must not accept a site plan application without this certification.

In order that the covenants contain enough information to meet the objectives of the Zoning Ordinance, the following minimum provisions must be included:

1. executed by all persons having a property interest, including both contract purchasers and property owners;
2. bind all successors in interest and run with the land, unless the property is rezoned to another classification or the development plan modified by the District Council;
3. contain a complete and accurate description of the subject property;
4. incorporate by reference any applicable floating zone plan, by exhibit number, and specify with particularity all binding elements of the plan, or in the absence of a plan, all binding elements pertaining to the application;
5. contain a provision that enures to the benefit of Montgomery County and provides that the covenants may be enforced by the County or other appropriate government agencies; and
6. contain a provision that amendments to the covenants may only be made by the declarant or successors in interest to conform with modifications approved by the District Council or other appropriate government agencies.

Model Covenants are attached hereto.

**MODEL COVENANTS FOR USE IN FLOATING ZONE LOCAL MAP AMENDMENT
CASES UNDER SECTION 59-7.2.1. OF THE ZONING ORDINANCE¹**

DECLARATION OF COVENANTS

This Declaration of Covenants, made this ___ day of _____, by _____
and _____, record owners ("Owners") of the property located at _____
_____ Maryland, _____, and described as Lot _____, Block _____
address
of Section _____ ("Property").

WITNESSETH

WHEREAS, on _____, 20___, the Owners and/or those in privity with them
("Applicants"), filed Zoning Application G- _____, requesting the reclassification of the
Property from the _____ Zone to the _____ Zone, in accordance with Section 59-7.2.1. of the
2014 Montgomery County Zoning Ordinance; and

WHEREAS, the Applicants submitted a Floating Zone Plan ("FZP") (Ex. _____) and
proposed covenants (Ex. _____) as part of the rezoning application pursuant to Zoning
Ordinance §59-7.2.1.B.2.e.iv., for the purpose of limiting development of the Property to

Generally describe restrictions

as depicted in the FZP; and

¹ Revised September 2, 2014.

WHEREAS, Section 59-7.2.1. of the Zoning Ordinance requires that Zoning Application G-_____ and the FZP (Ex. _____) be submitted to the Montgomery County Council, sitting as the District Council ("Council"), for approval; and

WHEREAS, upon approval of the rezoning and the FZP by the Council, Section 59-7.2.1.F.3. of the Zoning Ordinance requires the submission and filing in the Land Records of Montgomery County, Maryland, of an executed covenant reflecting in specific language any restricted development standards, development program, or limitation on uses contained in the approved FZP,

NOW, THEREFORE, in consideration of the foregoing and in compliance with the Zoning Ordinance, the Owners on behalf of themselves, and their heirs, personal representatives, successors or assigns, hereby declare, covenant and agree, that so long as the Property remains in the _____Zone, the Property (and all its parts or subparts) shall be transferred, sold conveyed and occupied subject to the conditions, covenants and restrictions set forth herein:

1. So long as the Property is zoned _____, no development, construction or use will be started, erected or maintained on the Property that does not conform to the binding elements of the FZP (Ex. _____), amended as may be authorized by law, ordinance or regulation. Further, the FZP contains the following binding restrictions and limitations by which the Owners shall be bound. All other elements will be governed by the provisions of the Montgomery County Code:

2. These Covenants will be recorded among the Land Records of Montgomery County, Maryland, immediately following the grant of the _____Zone for the Property. Further, these Covenants shall run with the land; shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns; shall inure to the benefit of each owner thereof and to Montgomery County, Maryland, so long as the Property is zoned _____; and shall remain in effect until such time as the Property is rezoned or the restrictions on development are removed or are amended by action of the Council or other governmental body having jurisdiction, or are declared invalid by any court of competent jurisdiction, at which time the covenants and restrictions shall terminate and have no further force and effect. These Covenants shall not take effect until the Property is rezoned to the _____Zone, and the Council approves the FZP (Ex. No. _____).

3. The binding elements contained in this Declaration of Covenants and in the FZP shall be enforceable by the Council pursuant to Section 59-7.2.1.J. of the Zoning Ordinance.

4. This Declaration of Covenants may be amended by the Owners or their successors or assigns to conform to any modification made by the Council in the binding elements contained in the FZP, or any amendment thereof.

IN WITNESS WHEREOF, the Owners have set their hands and seals on the day and year written below.

WITNESS:

OWNERS:
_____ (SEAL)

WITNESS:

_____ (SEAL)

STATE OF MARYLAND,
COUNTY OF MONTGOMERY, to wit:

I hereby certify that on the _____ day of _____, 20__, before the subscriber, a Notary Public in and for the aforesaid County and State, personally appeared _____, personally well known to me (or satisfactorily proved) to be the person whose name is subscribed to the within instrument and did acknowledge the foregoing Declaration to be his/her own free act.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal.

NOTARY PUBLIC

My Commission Expires: _____

ATTORNEY'S CERTIFICATION

I HEREBY CERTIFY that I am an attorney duly admitted to practice before the Court of Appeals of Maryland and that the foregoing instrument was prepared by me or under my supervision.
